GS4.108:41/Chap.102-end/982 MF

code of federal regulations

Public Contracts and Property Management

ORIGINAL

COMPLETED

41

CHAPTER 102 TO END

Revised as of July 1, 1982

022-003-94847-3

GS4-108:41/chap.102-end/982 MF

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

code of federal regulations

Public Contracts and Property Management

41

CHAPTER 102 TO END

Revised as of July 1, 1982

CONTAINING
A CODIFICATION OF DOCUMENTS
OF GENERAL APPLICABILITY
AND FUTURE EFFECT

AS OF JULY 1, 1982

With Ancillaries

Published by
the Office of the Federal Register
National Archives and Records Service
General Services Administration

as a Special Edition of
the Federal Register

1934

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON: 1982

FOR SALE BY THE SUPERINTENDENT OF DOCUMENTS
U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON, D.C. 20402

MICROFICHE (24X)

SUBSCRIPTION PRICE: DOMESTIC-- $225.00 A YEAR
$ 2.25 SINGLE COPY
FOREIGN-- $280.00 A YEAR
$ 2.85 SINGLE COPY

Table of Contents

Page

Explanation v

Title 41:

Subtitle C—Federal Property Management Regulations System:

Chapter 105—General Services Administration 7

Chapter 109—Department of Energy Property Management Regulations 129

Chapter 114—Department of the Interior 225

Chapter 115—Environmental Protection Agency 361

Chapter 128—Department of Justice 363

Subtitle D—Other provisions relating to Property Management [Reserved]

Finding Aids:

Table of CFR Titles and Chapters 397

Alphabetical List of Agencies Appearing in the CFR 411

List of CFR Sections Affected 419

Cite this Code CFR
thus: 41 CFR
105-1.000-50

Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

ISSUE DATES

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16	as of January 1
Title 17 through Title 27	as of April 1
Title 28 through Title 41	as of July 1
Title 42 through Title 50	as of October 1

The appropriate revision date is printed on the cover of each volume.

LEGAL STATUS

The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

HOW TO USE THE CODE OF FEDERAL REGULATIONS

The Code of Federal Regulations is kept up to date by the individual issues of the Federal Register. These two publications must be used together to determine the latest version of any given rule.

To determine whether a Code volume has been amended since its revision date (in this case, July 1, 1982), consult the "List of CFR Sections Affected (LSA)," which is issued monthly, and the "Cumulative List of Parts Affected," which appears in the Reader Aids section of the daily Federal Register. These two lists will identify the Federal Register page number of the latest amendment of any given rule.

EFFECTIVE AND EXPIRATION DATES

Each volume of the Code contains amendments published in the Federal Register since the last revision of that volume of the Code. Source citations for the regulations are referred to by volume number and page number of the Federal Register and date of publication. Publication dates and effective dates are usually not the same and care must be exercised by the user in determining the actual effective date. In instances where the effective date is beyond the cut-off date for the Code a note has been inserted to reflect the future effective date. In those instances where a regulation published in the Federal Register states a date certain for expiration, an appropriate note will be inserted following the text.

OMB CONTROL NUMBERS

The Paperwork Reduction Act of 1980 (Pub. L. 96-511) requires Federal agencies to take steps to reduce the Federal paperwork burden for individuals, small businesses and State and local governments, as well as to maximize the usefulness of information collection. One specific requirement of the Act is for Federal agencies to display an OMB control number with the information collection request.

Many agencies have begun publishing numerous OMB control numbers as amendments to existing regulations in the CFR. These OMB numbers are placed as close as possible to the applicable recordkeeping or reporting requirements.

OBSOLETE PROVISIONS

Provisions that become obsolete before the revision date stated on the cover of each volume are not carried. Code users may find the text of provisions in effect on a given date in the past by using the appropriate numerical list of sections affected. For the period before January 1, 1973, consult either the List of CFR Sections Affected, 1949-1963, or 1964-1972, published in three separate volumes. For the period beginning January 1, 1973, a "List of CFR Sections Affected" is published at the end of each CFR volume.

CFR INDEXES AND TABULAR GUIDES

A subject index to the Code of Federal Regulations is contained in a separate volume, revised annually as of January 1, entitled CFR INDEX AND FINDING AIDS. This volume contains the Parallel Table of Statutory Authorities and Agency Rules (Table I), and Acts Requiring Publication in the Federal Register (Table III). A list of CFR Titles, Chapters, and Parts and an alphabetical list of agencies publishing in the CFR are also included in this volume.

An index to the text of Presidential documents appears at the end of each compilation of Title 3, The President.

The Federal Register Index is issued monthly in cumulative form. This index is based on a consolidation of the "Contents" entries in the daily Federal Register.

A List of CFR Sections Affected (LSA) is published monthly, keyed to the revision dates of the 50 CFR titles.

INQUIRIES AND SALES

For a summary, legal interpretation, or other explanation of any regulation in this volume, contact the issuing agency. Inquiries concerning editing procedures and reference assistance with respect to the Code of Federal Regulations may be addressed to the Director, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408 (telephone 202-523-3517). Sales are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

JOHN E. BYRNE,
Director,
Office of the Federal Register.

July 1, 1982.

THIS TITLE

CONTENTS

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT consists of Subtitle A—Federal Procurement Regulations System. Subtitle B—Other Provisions Relating to Public Contracts and Subtitle C—Federal Property Management Regulations System. Subtitle D is reserved for other provisions relating to property management.

The Federal procurement regulations in Chapter 1 of Subtitle A are those government-wide procurement regulations issued by the General Services Administration. In Chapters 2 through 49 of Subtitle A are procurement regulations issued by individual government agencies. The first 49 parts in each of Chapters 2 through 49 are reserved for agency regulations *implementing* the Federal procurement regulations in Chapter 1 and are numerically keyed to them. The remaining parts in Chapters 2 through 49 contain agency regulations *supplementing* the Federal procurement regulations.

Other government-wide procurement regulations relating to public contracts appear in Chapters 50 through 100, Subtitle B.

The Federal property management regulations in Chapter 101 of Subtitle C are government-wide property management regulations issued by the General Services Administration. In the remaining chapters of Subtitle C are the *implementing* and *supplementing* property management regulations issued by individual Government agencies. Those regulations which implement Chapter 101 are numerically keyed to it.

NUMBERING

The numbering system of Title 41 differs from that used for other titles of the *Code of Federal Regulations*. The numbering system is especially designed to permit the keying of agency regulations to government-wide regulations in Subtitles A and C which are issued by the General Services Administration. Chapters are designated by Arabic numerals. Each section number is a combination showing to the left of the decimal point the chapter and part numbers, separated by a dash. To the right of the decimal point the subpart, section, and subsection numbers are indicated in that order. Thus, an agency assigned to Chapter 2, and wishing to implement the cost-plus-a-fixed-fee contract provisions contained in Chapter 1, Part 1-3, Subpart 1-3.4, section 05, subsection 5 of the Federal Procurement Regulations (§ 1-3.405-5), would assign the section number "§ 2-3.405-5" to the implementing provisions.

Where material in the Federal Procurement Regulations (FPR) requires no implementation or deviaton, there is no corresponding number in the agency regulations. Thus, there may be gaps in the sequence of numbers where the FPR, as written, are applicable to agency procurement.

Title 41 is composed of eleven volumes. The chapters in these volumes are arranged as follows: Chapters 1-2, Chapters 3-6, Chapter 7, Chapter 8, Chapter 9, Chapters 10-17, Chapter 18 (Volumes I, II and III), Chapters 19-100, and Chapter 101 to end.

For this volume, Gary J. Bruegging was Chief Editor. The Code of Federal Regulations publication program is under the direction of Martha B. Girard, assisted by Robert E. Jordan.

New Publication

List of CFR Sections Affected
(1964 through 1972)

A Research Guide

These two volumes contain a compilation of the "List of CFR Sections Affected (LSA)" for the years 1964 through 1972. Reference to these tables will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

Volume I (Titles 1 through 27) $15.00
Volume II (Titles 28 through 50) $14.00

ORDER FORM Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ ________ ☐ check,
☐ money order, or charge to my
Deposit Account No.
☐☐☐☐☐☐☐–☐

Order No. ____________

VISA

MasterCard

Credit Card Orders Only

Total charges $ ______ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me ___ copies of the CODE OF FEDERAL REGULATIONS
Volume I $15.00 Stock No. 022-003-94233-5
Volume II $14.00 Stock No. 022-003-94234-3

Name—First, Last ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Street address ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Company name or additional address line ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

City ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐ State ☐☐ ZIP Code ☐☐☐☐☐

(or Country) ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

PLEASE PRINT OR TYPE

For Office Use Only

Quantity		Charges
________	Enclosed	
________	To be mailed	
	Subscriptions	
Postage		
Foreign handling		
MMOB		
OPNR		
________	UPNS	
________	Discount	
________	Refund	

Blank Page

×

Title 41—Public Contracts and Property Management

(This book contains Chapter 102 to end)

Part

SUBTITLE C—FEDERAL PROPERTY MANAGEMENT REGULATIONS SYSTEM (Continued):

CHAPTERS 102-104 [Reserved]

CHAPTER 105—General Services Administration 105-1

CHAPTER 109—Department of Energy Property Management Regulations 109-1

CHAPTER 114—Department of the Interior 114-1

CHAPTER 115—Environmental Protection Agency 115-1

CHAPTER 128—Department of Justice 128-1

SUBTITLE D—OTHER PROVISIONS RELATING TO PROPERTY MANAGEMENT [Reserved]

1

Blank Page

Subtitle C—Federal Property Management Regulations System (Continued)

Blank Page

CHAPTERS 102–104 [RESERVED]

Blank Page

CHAPTER 105—GENERAL SERVICES ADMINISTRATION

Part		*Page*
105-1	Introduction	8
105-50	Provision of special or technical services to State and local units of government	10
105-53	Statement of organization and functions	15
105-54	Advisory committee management	22
105-60	Public availability of agency records and informational materials	32
105-61	Public use of records, donated historical materials, and facilities in the National Archives and Records Service	40
105-62	Document security and declassification	70
105-63	Preservation and protection of and access to the Presidential historical materials of the Nixon Administration	75
105-64	Regulations implementing the Privacy Act of 1974	85
105-65	National Historical Publications and Records Commission	97
105-66	National Archives Trust Fund Board [Reserved]	
105-735	Standards of conduct	105

90-147 O—82——2

PART 105-1—INTRODUCTION

Sec.
105-1.000-50 Scope of part.

Subpart 105-1.1—Regulations System

105-1.100 Scope of subpart.
105-1.101 General Services Administration Property Management Regulations.
105-1.101-50 Exclusions.
105-1.102 Relationship of GSPMR to FPMR.
105-1.104 Publication of GSPMR.
105-1.106 Applicability.
105-1.109 Numbering.
105-1.109-50 General plan.
105-1.109-51 Arrangement.
105-1.109-52 Cross-references.
105-1.110 Deviation.
105-1.150 Citation.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 39 FR 25231, July 9, 1974, unless otherwise noted.

§ 105-1.000-50 Scope of part.

This part describes the method by which the General Services Administration (GSA) implements and supplements the Federal Property Management Regulations (FPMR) and implements certain regulations prescribed by other agencies. It contains procedures that implement and supplement Part 101-1 of the FPMR.

Subpart 105-1.1—Regulations System

§ 105-1.100 Scope of subpart.

This subpart establishes the General Services Administration Property Management Regulations (GSPMR) and provides certain introductory material.

§ 105-1.101 General Services Administration Property Management Regulations.

The General Services Administration Property Management Regulations (GSPMR) include the GSA property management policies and procedures which, together with the Federal Property Management Regulations, certain regulations prescribed by other agencies, and various GSA orders govern the management of property and records and certain related activities of GSA. They may contain policies and procedures of interest to other agencies and the general public and are prescribed by the Administrator of General Services in this Chapter 105.

§ 105-1.101-50 Exclusions.

(a) Certain GSA property management and related policies and procedures which come within the scope of this Chapter 105 nevertheless may be excluded therefrom when there is justification. These exclusions may include the following categories:

(1) Subject matter that bears a security classification;

(2) Policies and procedures that are expected to be effective for a period of less than 6 months;

(3) Policies and procedures that are effective on an experimental basis for a reasonable period;

(4) Policies and procedures pertaining to other functions of GSA as well as property management functions and there is need to make the issuance available simultaneously to all GSA employees involved; and

(5) Where speed of issuance is essential, numerous changes are required in Chapter 105, and all necessary changes cannot be made promptly.

(b) Property management policies and procedures issued in other than the FPMR system format under paragraphs (a)(4) and (5) of this section, shall be codified into Chapter 105 at the earliest practicable date, but in any event not later than 6 months from date of issuance.

§ 105-1.102 Relationship of GSPMR to FPMR.

(a) GSPMR implement and supplement the FPMR and implement certain other regulations. They are part of the General Services Administration Regulations System. Material published in the FPMR (which has Governmentwide applicability) becomes effective throughout GSA upon the effective date of the particular FPMR material. In general, the FPMR that are implemented and supplemented shall not be repeated, paraphrased, or otherwise restated in Chapter 105.

(b) Implementing is the process of expanding upon the FPMR or other

Government-wide regulations. Supplementing is the process of prescribing material for which there is no counterpart in the Government-wide regulations.

(c) GSPMR may deviate from the regulations that are implemented when a deviation (see § 105-1.110) is authorized in and explicitly referenced to such regulations. Where Chapter 105 contains no material implementing the FPMR, the FPMR shall govern.

§ 105-1.104 Publication of GSPMR.

(a) Most GSPMR are published in the FEDERAL REGISTER. This practice helps to ensure that interested business concerns, other agencies, and the public are apprised of GSA policies and procedures pertaining to property and records management and certain related activities.

(b) Most GSPMR are published in cumulative form in Chapter 105 of Title 41 of the Code of Federal Regulations. The FEDERAL REGISTER and Title 41 of the Code of Federal Regulations may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

§ 105-1.106 Applicability.

Chapter 105 applies to the management of property and records and to certain other programs and activities of GSA. Unless otherwise specified, Chapter 105 applies to activities outside as well as within the United States.

§ 105-1.109 Numbering.

§ 105-1.109-50 General plan.

Chapter 105 is divided into parts, subparts, and further subdivisions as necessary.

§ 105-1.109-51 Arrangement.

(a) Parts 105-2 through 105-49 are used for GSPMR that implement regulations in the corresponding parts of Chapter 101. This practice results in comparable grouping by subject area without establishment of subchapters.

(b) Parts 105-50 and above are used for GSPMR that supplement regulations in the FPMR and implement regulations of other agencies. Part numbers are assigned so as to accomplish a similar subject area grouping. Regulations on advisory committee management are recodified as Part 105-54 to place them in the appropriate subject area category. Regulations on standards of conduct remain in Part 105-735 because the number 735 identifies regulations of the U.S. Civil Service Commission and various civil agencies on this subject.

§ 105-1.109-52 Cross-references.

(a) Within Chapter 105, cross-references to the FPMR shall be made in the same manner as used within the FPMR. Illustrations of cross-references to the FPMR are:

(1) Part 101-3
(2) Subpart 101-3.1
(3) § 101-3.413-5

(b) Within Chapter 105, cross-references to parts, subparts, sections, and subsections of Chapter 105 shall be made in a manner generally similar to that used in making cross-references to the FPMR. For example, this paragraph would be referenced as § 105-1.109-52(b).

§ 105-1.110 Deviation.

(a) The term "deviation" as used in this Chapter 105 is defined in the same manner as described in § 1-1.009-1.

(b) To maintain uniformity to the greatest extent feasible, deviation from the FPMR to the GSPMR shall be kept to a minimum and controlled. Approval of any deviation from the FPMR or Chapter 105 shall be made only by the Administrator. In each instance, the authorizing document shall disclose the nature of the deviation and the reasons for such special action, and a copy of the document shall be furnished to the Paperwork Management Division (BRA), OAD. Deviations may be extended but otherwise will expire 12 months from the date of approval, unless sooner rescinded without prejudice to any action thereunder.

(c) Requests for deviations shall be supported by statements adequate to disclose fully the nature of the deviation and the need therefore. Requests shall be submitted to the Administrator through the Office of Administration.

§ 105-1.150 Citation.

(a) In formal documents, such as legal briefs, citations of Chapter 105 material shall include a citation to Title 41 of the Code of Federal Regulations or other titles as appropriate; e.g., 41 CFR 105-1.150.

(b) Any section of Chapter 105, for purpose of brevity, may be informally identified as "GSPMR" followed by the section number. For example, this paragraph would be identified as "GSPMR 105-1.150(b)."

PART 105-50—PROVISION OF SPECIAL OR TECHNICAL SERVICES TO STATE AND LOCAL UNITS OF GOVERNMENT

Sec.
105-50.000 Scope of part.
105-50.001 Definitions.
105-50.001-1 State.
105-50.001-2 Political subdivision or local government.
105-50.001-3 Unit of general local government.
105-50.001-4 Special-purpose unit of local government.
105-50.001-5 Specialized or technical services.
105-50.001-6 GSA.

Subpart 105-50.1—General Provisions

105-50.101 Purpose.
105-50.102 Applicability.
105-50.103 Policy.
105-50.104 Limitations.
105-50.105 Coordination of requests.
105-50.106 GSA response to requests.

Subpart 105-50.2—Services Available From General Services Administration

105-50.201 Agencywide mission.
105-50.202 Specific services.
105-50.202-1 Copies of statistical or other studies.
105-50.202-2 Preparation of or assistance in the conduct of statistical or other studies.
105-50.202-3 Training.
105-50.202-4 Technical assistance incident to Federal surplus personal property.
105-50.202-5 Data processing services.
105-50.202-6 Communications services.
105-50.202-7 Technical information and advice.

Subpart 105-50.3—Principles Governing Reimbursements to GSA

Sec.
105-50.301 Established fees.
105-50.302 Special fee schedules.
105-50.303 Cost basis in lieu of fees.
105-50.304 Services provided through revolving funds.
105-50.304a Deposits.
105-50.305 Exemptions.

Subpart 105-50.4—Reports

105-50.401 Reports submitted to the Congress.
105-50.402 Report submitted to the Office of Management and Budget.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and sec. 302, 82 Stat. 1102; 42 U.S.C. 4222.

SOURCE: 41 FR 21451, May 26, 1976, unless otherwise noted.

§ 105-50.000 Scope of part.

This part prescribes rules and procedures governing the provision of special or technical services to State and local units of government by GSA. This part also prescribes principles governing reimbursements for such services.

§ 105-50.001 Definitions.

The following definitions are established for terms used in this part.

§ 105-50.001-1 State.

"State" means any of the several States of the United States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State.

§ 105-50.001-2 Political subdivision or local government.

"Political subdivision" or "local government" means a local unit of government, including specifically a county, municipality, city, town, township, or a school or other special district created by or pursuant to State law.

§ 105-50.001-3 Unit of general local government.

"Unit of general local government" means any city, county, town, parish, village, or other general purpose political subdivision of a State.

§ 105-50.001-4 Special-purpose unit of local government.

"Special-purpose unit of local government" means any special district, public-purpose corporation, or other strictly limited-purpose political subdivision of a State, but shall not include a school district.

§ 105-50.001-5 Specialized or technical services.

"Specialized or technical services" means statistical and other studies and compilations, development projects, technical tests and evaluations, technical information, training activities, surveys, reports, documents, and any other similar service functions which any department or agency of the executive branch of the Federal Government is especially equipped and authorized by law to perform.

§ 105-50.001-6 GSA.

"GSA" means the General Services Administration.

Subpart 105-50.1—General Provisions

§ 105-50.101 Purpose.

(a) This Part 105-50 implements the provisions of Title III of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1102, 42 U.S.C. 4221-4225), the purpose of which is stated as follows:

> "It is the purpose of this title to encourage intergovernmental cooperation in the conduct of specialized or technical services and provision of facilities essential to the administration of State or local governmental activities, many of which are nationwide in scope and financed in part by Federal funds; to enable state and local governments to avoid unnecessary duplication of special service functions; and to authorize all departments and agencies of the executive branch of the Federal Government which do not have such authority to provide reimbursable specialized or technical services to State and local governments."

(b) This part is consistent with the rules and regulations promulgated by the Director, Office of Management and Budget, in the Office of Management and Budget Circular No. A-97, dated August 29, 1969, issued pursuant to section 302 of the cited Act (42 U.S.C. 4222).

§ 105-50.102 Applicability.

This part is applicable to all organizational elements of GSA insofar as the services authorized to be performed in Subpart 105-50.2 fall within their designated functional areas.

§ 105-50.103 Policy.

It is the policy of GSA to cooperate to the maximum extent possible with State and local units of government in providing the specialized or technical services authorized within the limitations set forth in § 105-50.104.

§ 105-50.104 Limitations.

The specialized or technical services provided under this part may be provided, in the discretion of the Administrator of General Services, only under the following conditions:

(a) Such services will be provided only to the States, political subdivisions thereof, and combinations or associations of such governments or their agencies and instrumentalities.

(b) Such services will be provided only upon the written request of a State or political subdivision thereof. Requests normally will be made by the chief executives of such entities and will be addressed to the General Services Administration as provided in § 105-50.105.

(c) Such services will not be provided unless GSA is providing similar services for its own use under the policies set forth in the Office of Management and Budget Circular No. A-76 Revised, dated August 30, 1967, subject: Policies for acquiring commercial or industrial products and services for Government use. In addition, in accordance with the policies set forth in Circular No. A-76, the requesting entity must certify that such services cannot be procured reasonably and expeditiously through ordinary business channels.

(d) Such services will not be provided if they require any additions of staff or involve outlays for additional equipment or other facilities solely for the purpose of providing such services, except where the costs thereof are charged to the user of such services. Further, no staff additions may be made which impede the implementation of, or adherence to, the employment ceilings contained in the Office of Management and Budget allowance letters.

(e) Such services will be provided only upon payment or provision for reimbursement by the unit of government making the request of salaries and all other identifiable direct and indirect costs of performing such services. For cost determination purposes, GSA will be guided by the policies set forth in the Office of Management and Budget Circular No. A-25, dated September 23, 1959, subject: User charges.

§ 105-50.105 Coordination of requests.

(a) All inquiries of a general nature concerning services GSA can provide shall be addressed to the General Services Administration (BR), Washington, D.C. 20405. The Director of Management Services, Office of Administration, shall serve as the central coordinator for such inquiries and shall assign them to the appropriate organizational element of GSA for expeditious handling.

(b) Requests for specific services may be addressed directly to Heads of Services and Staff Offices and to Regional Administrators. Section 105-50.202 describes the specific services GSA can provide.

(c) If the proper GSA organizational element is not known to the State or local unit of government, the request shall be addressed as in paragraph (a) of this section to ensure appropriate handling.

§ 105-50.106 GSA response to requests.

(a) Direct response to each request shall be made by the Head of the applicable Service or Staff Office or Regional Administrator. He shall outline the service to be provided and the fee or reimbursement required. Any special conditions concerning time and priority, etc., shall be stated. Written acceptance by the authorized State or local governmental entity shall constitute a binding agreement.

(b) Heads of Services and Staff Offices and Regional Administrators shall maintain complete records and controls of services provided on a calendar year basis to facilitate accurate, annual reporting, as required in § 105-50.401.

Subpart 105-50.2—Services Available From General Services Administration

§ 105-50.201 Agencywide mission.

(a) In its role as a central property management agency, GSA constructs, leases, operates, and maintains office and other space: procures and distributes supplies; coordinates and provides for the economic and efficient purchase, lease, sharing, and maintenance of automatic data processing equipment by Federal agencies; manages stockpiles of materials maintained for use in national emergencies; transfers excess real and personal property among Federal agencies for further use; disposes of surplus real and personal property, by donation or otherwise, as well as materials excess to stockpile requirements; operates centralized data processing centers and telecommunications and motor pool systems; operates the National Archives and Presidential libraries; and provides a variety of records management services, including the operation of centers for storing and administering records, as well as other common services.

(b) Special or technical services may be provided by many organizational elements of GSA with respect to their functional areas, but the requesting State or local agency needs only to know that the service desired is related to one or more of the functional areas described above and direct its request as provided for under § 105-50.105. State and local units of government are also encouraged to consult the "Catalog of Federal Domestic Assistance" as a more complete guide to the many other Federal assistance programs available to them. The catalog, issued annually and updated periodically by the Office of Management and Budget, is available through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

§ 105-50.202 Specific services.

Within the functional areas identified in § 105-50.201, GSA can provide the services hereinafter described.

§ 105-50.202-1 Copies of statistical or other studies.

This material includes a copy of any existing statistical or other studies and compilations, results of technical tests and evaluations, technical information, surveys, reports, and documents, and any such materials which may be developed or prepared in the future to meet the needs of the Federal Government or to carry out normal program responsibilities of GSA.

§ 105-50.202-2 Preparation of or assistance in the conduct of statistical or other studies.

(a) This service includes preparation of statistical or other studies and compilations, technical tests and evaluations, technical information, surveys, reports, and documents and assistance in the conduct of such activities and in the preparation of such materials, provided they are of a type similar to those which GSA is authorized by law to conduct or prepare and when resources are available.

(b) Specific areas in which GSA can conduct or participate in the conduct of studies include:

(1) Space management, including assignment and utilization;

(2) Supply management, including laboratory tests and evaluations;

(3) Management of motor vehicles;

(4) Archives and records management;

(5) Automatic data processing systems; and

(6) Telecommunications and teleprocessing systems and services.

§ 105-50.202-3 Training.

(a) This training consists of the type which GSA is authorized by law to conduct for Federal personnel and others or which is similar to such training.

(b) Descriptions of the specific training courses conducted by GSA are published annually in the Interagency Training Programs bulletin, copies of which are available from the U.S. Civil Service Commission, Washington, D.C. 20415.

§ 105-50.202-4 Technical assistance incident to Federal surplus personal property.

Technical assistance will be provided in the screening and selection of surplus personal property under existing laws, provided such aid primarily strengthens the ability of the recipient in developing its own capacity to prepare proposals.

§ 105-50.202-5 Data processing services.

GSA will develop ADP logistical feasibility studies, software, systems analyses, and programs. To the extent that data processing capabilities are available, GSA will also assist in securing data processing services on a temporary, short term basis from other Federal facilities or Federal Data Processing Centers.

§ 105-50.202-6 Communications services.

GSA will continue to make its bulk rate circuit ordering services available for use by State and local governments. Under a revised tariff effective December 12, 1971, GSA will bill the State and local governments for their share of the TEL PAK costs. Services provided prior to December 12, 1971, will be billed by the contractors under the former arrangements. In addition, certain activities, such as surplus property agencies which have frequent communications with Federal agencies, will be given access to the Federal Telecommunications System switchboards.

§ 105-50.202-7 Technical information and advice.

GSA will provide technical information, personnel management systems services, and technical advice on improving logistical and management services which GSA normally provides for itself or others under existing authorities.

Subpart 105-50.3—Principles Governing Reimbursements to GSA

§ 105-50.301 Established fees.

Where there is an established schedule of fees for services to other Government agencies or the public, the schedule shall be used as the basis for reimbursement for like services furnished to State and local governments.

§ 105-50.302 Special fee schedules.

Where there is no established schedule of fees for types of service which are ordinarily reimbursed on a fee basis, such schedules may be developed and promulgated in conjunction with the Office of Administration. The fees so established shall cover all direct costs, such as salaries of personnel involved plus personnel benefits, travel, and other related expenses and all indirect costs such as management, supervisory, and staff support expenses determined or estimated from the best available records in GSA. Periodically, fees shall be reviewed for adequacy of recovery and adjusted as necessary.

§ 105-50.303 Cost basis in lieu of fees.

Where the cost of services is to be recovered on other than a fee basis, upon receipt of a request from a State or local government for such services, a written reply shall be prepared by the service or staff office receiving the request stating the basis for reimbursement for the services to be performed. The proposal shall be based on an estimate of all direct costs, such as salaries of personnel involved plus personnel benefits, travel, and other related expenses and on such indirect costs as management, supervisory, and staff support expenses. An appropriate surcharge may be developed to recover these indirect costs. The terms thereof shall be concurred in by the Director of Administration. Acceptance in writing by the requester shall constitute a binding agreement between GSA and the requesting governmental unit.

§ 105-50.304 Services provided through revolving funds.

Where the service furnished is of the type which GSA is now billing through revolving funds, reimbursement shall be obtained from State and local governments on the same basis; i.e., the same pricing method, billing forms, and billing support shall be used.

§ 105-50.304a Deposits.

Reimbursements to GSA for furnishing special or technical services to State and local units of government will be deposited to the credit of the appropriation from which the cost of providing such services has been paid or is to be charged if such reimbursements are authorized. Otherwise, the reimbursements will be credited to miscellaneous receipts in the U.S. Treasury (42 U.S.C. 4223).

§ 105-50.305 Exemptions.

(a) Single copies of existing reports covering studies and statistical compilations and other data or publications for which there is no established schedule of fees shall be furnished without charge unless significant expense is incurred in reproducing the material, in which instance the actual cost thereof shall be charged.

(b) GSA may, pursuant to section 302 of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4742), admit employees of State and local units of government to training programs established for professional, administrative, or technical personnel and may waive the requirement for reimbursement in whole or in part.

Subpart 105-50.4—Reports

§ 105-50.401 Reports submitted to the Congress.

(a) The Administrator of General Services will furnish annually to the respective Committees on Government Operations of the Senate and the House of Representatives a summary report on the scope of the services provided under Title III of the act and this part.

(b) Heads of Services and Staff Offices and all Regional Administrators shall furnish the Director of Management Services, OAD, by no later than January 15 of each year, the following information concerning services provided during the preceding calendar year to State and local units of government:

(1) A brief description of the services provided, including any other pertinent data;

(2) The State and/or local unit of government involved; and

(3) The cost of GSA to provide the service, including the amount of reimbursement, if any, made by the benefitting government.

(c) Reports Control Symbol LAW-27-OA is assigned to this report.

§ 105-50.402 Reports submitted to the Office of Management and Budget.

Copies of the foregoing reports will be submitted by the Administrator to the Office of Management and Budget not later than March 30 of each year.

PART 105-53—STATEMENT OF ORGANIZATION AND FUNCTIONS

Sec.
105-53.100 Purpose.

Subpart A—General

105-53.110 Creation and authority.
105-53.112 General statement of functions.
105-53.114 General statement of organization.
105-53.116 General regulations.
105-53.118 Locations of material available for public inspection.
105-53.120 Addresses and telephone numbers.

Subpart B—Central Offices

105-53.130 Office of the Administrator.
105-53.130-1 Office of Congressional Affairs.
105-53.130-2 Office of Ethics.
105-53.130-3 Office of the Executive Secretariat.
105-53.130-4 Office of Small and Disadvantaged Business Utilization.
105-53.131 Office of Inspector General.
105-53.132 GSA Board of Contract Appeals.
105-53.133 Information Security Oversight Office.
105-53.134 Associate Administrator for Administration.
105-53.135 Office of Operations.
Sec.
105-53.136 Office of Policy and Management Systems.
105-53.137 Office of Acquisition Policy.
105-53.138 Office of General Counsel.
105-53.139 Office of Plans, Programs, and Financial Management.
105-53.140 Office of Organization and Personnel.
105-53.141 Office of Oversight.
105-53.142 Office of Public Affairs.
105-53.143 Automated Data and Telecommunications Service.
105-53.144 Federal Property Resources Service.
105-53.145 Federal Supply Service.
105-53.146 National Archives and Records Service.
105-53.147 Public Buildings Service.
105-53.148 Transportation and Public Utilities Service.

Subpart C—Regional Offices

105-53.150 Organization and functions.
105-53.151 Geographic composition; addresses and telephone numbers.

AUTHORITY: 5 U.S.C. 552(a)(1), Pub. L. 90-23, 81 Stat. 54 sec. (a)(1); 40 U.S.C. 486(c), Pub. L. 81-152, 63 Stat. 390, sec. 205(c).

SOURCE: 47 FR 23164, May 27, 1982, unless otherwise noted.

§ 105-53.100 Purpose.

This part is published in accordance with 5 U.S.C 552 and is a general description of the General Services Administration.

Subpart A—General

§ 105-53.110 Creation and authority.

The General Services Administration was established by section 101 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), effective July 1, 1949. The act consolidated and transferred to the agency a variety of real and personal property and related functions formerly assigned to various agencies. Subsequent laws and Executive orders assigned other related functions and programs.

§ 105-53.112 General statement of functions.

The General Services Administration, as a major policy maker, provides guidance and direction to Federal agencies in a number of management fields. GSA formulates and prescribes a variety of Government-wide policies relating to procurement and contracting; real and personal property management; transportation, public utilities, and telecommunications management; automated data processing management; records management; the Nation's emergency defense supplies; the use and disposal of surplus property and equipment; the information security program; and the creation, preservation, and disposal of records.

§ 105-53.114 General statement of organization.

The General Services Administration is an independent agency in the executive branch of the Government. The work of the agency as a whole is directed by the Administrator of General Services, who is assisted by the Deputy Administrator. A summary description of each of GSA's major functions and organizational components is presented in Subparts B and C.

§ 105-53.116 General regulations.

Regulations of the General Services Administration and its components are codified in the Code of Federal Regulations in Title 1, Chapters I and II; Title 32, Chapter XX; and Title 41, Chapters 1, 5, 5A, 5B, 101, and 105. Titles 1, 32, and 41 of the Code of Federal Regulations are available for review at most legal and depository libraries and at the General Services Administration Central Office and regional offices. Copies may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

§ 105-53.118 Locations of material available for public inspection.

GSA maintains reading rooms containing material available for public inspection and copying at the following locations:

(a) General Services Administration, 18th & F Streets, NW., Library (Room 1033), Washington, DC, 20405. Telephone: 202-566-1240.

(b) Business Service Center, General Services Administration, John W. McCormack Building, Post Office & Courthouse, Boston, MA 02109. Telephone: 617-223-2868.

(c) Business Service Center, General Services Administration, 26 Federal Plaza, NY, NY 10007. Telephone: 212-264-1234.

(d) Business Service Center, General Services Administration, Seventh & D Streets, SW., Rm. 1050, Washington, DC 20407. Telephone: 202-472-1804.

(e) Business Service Center, General Services Administration, Ninth & Market Streets., Rm. 5142, Philadelphia, PA 19107. Telephone: 215-597-9613.

(f) Business Service Center, General Services Administration, Richard B. Russell Federal Building, U.S. Courthouse, 75 Spring Street SW., Atlanta, GA 30303. Telephone: 404-221-5100.

(g) Business Service Center, General Services Administration, 230 South Dearborn Street, Chicago, IL 60604. Telephone: 312-353-5383.

(h) Business Service Center, General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131. Telephone: 816-926-7203.

(i) Business Service Center, General Services Administration, 819 Taylor Street, Fort Worth, TX 76102. Telephone: 817-334-3284.

(j) Business Service Center, General Services Administration, Building 41, Denver Federal Center, Denver, CO 80225. Telephone: 303-324-2216.

(k) Business Service Center, General Services Administration, 525 Market Street, San Francisco, CA 94105. Telephone: 415-556-0877.

(l) Business Service Center, General Services Administration, 440 Federal Building, 915 Second Avenue, Seattle, WA 98174. Telephone: 206-442-5556.

§ 105-53.120 Addresses and telephone numbers.

The Office of the Administrator; Office of Inspector General; GSA Board of Contract Appeals; Information Security Oversight Office; Associate Administrator for Administration; Office of Operations; Office of Policy and Management Systems; Office of Congressional Affairs; Office of Ethics; Office of the Executive Secretariat; Office of Small and Disadvantaged Business Utilization; Office of Acquisition Policy; Office of Organization and Personnel; Office of Plans, Programs, and Financial Management; Office of Oversight; Office of Public

Affairs; Automated Data and Telecommunications Service; Federal Property Resources Service; and Public Buildings Service are located 18th and F Streets, NW., Washington, DC 20405. The Federal Supply Service is located in Crystal Mall Building 4, 1941 Jefferson Davis Highway, Washington, DC 20406. The National Archives and Records Service is located in the Archives Building, Seventh and Pennsylvania Avenue, NW., Washington, DC 20408. The Transportation and Public Utilities Service is located in the Chester Arthur Building, 425 I Street, NW., Washington, DC 20406. The telephone number for the above addresses is 202-655-4000. The addresses of the eleven regional offices are provided in § 105-53.151.

Subpart B—Central Office

§ 105-53.130 Office of the Administrator.

The Administrator of General Services, appointed by the President with the advice and consent of the Senate, directs the execution of all programs assigned to the General Services Administration. The Deputy Administrator, who is appointed by the Administrator, assists in directing agency programs and coordinating activities related to the functions of the General Services Administration.

§ 105-53.130-1 Office of Congressional Affairs.

The Office of Congressional Affairs, headed by the Director of Congressional Affairs, is responsible for directing and coordinating the legislative and congressional activities of GSA.

§ 105-53.130-2 Office of Ethics.

The Office of Ethics, headed by the Director of Ethics, is responsible for developing, directing, and monitoring the agency's program governing employee standards of ethical conduct. It is the focal point for the agency's implementation of the Ethics in Government Act of 1978.

§ 105-53.130-3 Office of the Executive Secretariat.

The Office of the Executive Secretariat, headed by the Director of the Executive Secretariat, is responsible for policy coordination, correspondence control, and various administrative tasks in support of the Administrator and Deputy Administrator.

§ 105-53.130-4 Office of Small and Disadvantaged Business Utilization.

(a) *Creation and authority.* Public Law 95-507, known as the Small and Disadvantaged Business Utilization Act of 1978, established in each Federal agency having procurement authority the Office of Small and Disadvantaged Business Utilization. Each office is headed by a Director of Small and Disadvantaged Business Utilization. The Director is appointed by the head of the agency or department.

(b) *Functions.* The Office of Small and Disadvantaged Business Utilization is responsible for issuance of policy direction and guidance relating to Sections 8 and 15 of the Small Business Act. The office provides information, assistance, and counseling to business concerns, including small businesses, small and economically disadvantaged persons, women-owned businesses, labor surplus area concerns, and workshops operated by the blind and other severely handicapped persons. The office also conducts outreach, liaison, source listings, and seminars for small and disadvantaged businesses and coordinates and promotes procurement programs and policies.

§ 105-53.131 Office of Inspector General.

(a) *Creation and authority.* Pub. L. 95-452, known as the Inspector General Act of 1978, consolidated existing audit and investigation functions and established an Office of Inspector General in 11 major domestic departments and agencies, including GSA. Each office is headed by a presidentially appointed Inspector General.

(b) *Functions.* The Office of Inspector General is responsible for policy direction and conduct of audit, inspection, and investigation activities relating to programs and operations of GSA; and maintaining liaison with other law enforcement agencies, the Department of Justice, and United States Attorneys on all matters relating to the detection and prevention of fraud and abuse. The Inspector General reports semi-annually to the Congress through the administrator concerning fraud, abuses, other serious problems and deficiencies of agency programs and operations; recommends corrective action; and reports on progress made in implementing these actions.

§ 105-53.132 GSA Board of Contract Appeals.

(a) *Creation and authority.* The GSA Board of Contract Appeals (GSBCA), headed by the Chairman, GSA Board of Contract Appeals, was established on February 28, 1979, by the Administrator of General Services as an independent administrative/judicial tribunal under the provisions of the Contract Disputes Act of 1978 (Pub. L. 95-563).

(b) *Functions.* The GSBCA has the responsibility of hearing and deciding disputes on Government contracts awarded by GSA and other governmental agencies and commissions. The Board, acting upon delegated authority from the Administrator and not in its capacity as a board of contract appeals, also handles suspension and debarment actions, appeals stemming from charges of violations of the Ethics in Government Act, and any other disputes not inconsistent with the Boards functions when it sits as a contract appeals board.

(c) *Regulations.* Regulations pertaining to GSBCA programs are published in 41 CFR Part 5A-60. Information on availability of the regulations is provided in § 105-53.116.

§ 105-53.133 Information Security Oversight Office.

(a) *Creation and authority.* The Information Security Oversight Office (ISOO) was established by the Administrator on November 20, 1978, under the provisions of Executive Order 12065. Effective August 1, 1982, this authority will be based upon Executive Order 12356, which supersedes E.O. 12065.

(b) *Functions.* ISOO oversees and ensures, under the general policy direction of the National Security Council, Government-wide implementation of the information security program established by Executive Order.

(c) *Regulations.* Regulations pertaining to ISOO programs are published in 32 CFR Chapter XX, Part 2000 et seq.

§ 105-53.134 Associate Administrator for Administration.

The Associate Administrator for Administration participates in the executive leadership of the agency, provides advice on major policies and procedures to the Administrator and Deputy Administrator, and oversees organizational effectiveness within the agency.

§ 105-53.135 Office of Operations.

The Office of Operations, headed by the Associate Administrator for Operations, participates in the executive leadership of the agency; in the formulation of GSA-wide policy; has primary responsibility for GSA's field operations; supervises GSA's Regional Administrators; and ensures that regional programs are executed in the most cost-effective and efficient manner.

§ 105-53.136 Office of Policy and Management Systems.

The Office of Policy and Management Systems, headed by the Associate Administrator for Policy and Management Systems, participates in the executive leadership of the agency; in the formulation of GSA-wide policy; and serves as the focal point for policy regarding agency management matters, and exercises control of agencywide management systems with oversight responsibility of general operating systems.

§ 105-53.137 Office of Acquisition Policy.

(a) *Functions.* The Office of Acquisition Policy (OAP), headed by the Assistant Administrator for Acquisition Policy, serves as the single focal point for GSA acquisition and contracting matters and is responsible for ensuring that the GSA procurement process is executed in compliance with all appropriate public laws and regulations and based on sound business judgment.

(b) *Regulations.* Regulations pertaining to OAP programs are published in 41 CFR Chapters 5, 5A, and 5B, General Services Administration Procurement Regulations (GSPR), and 41 CFR Chapter 1, Federal Procurement Regulations (FPR). Information on availability of the regulations is provided in § 105-53.116.

§ 105-53.138 Office of General Counsel.

Functions. The Office of General Counsel (OGC), headed by the General Counsel, provides all legal counsel within GSA with the exception of certain legal activities of the Office of Inspector General and legal activities of the Board of Contract Appeals; drafts legislation proposed by GSA; furnishes legal advice required in connection with reports on legislation proposed by other agencies; provides liaison on legal matters with other Federal agencies; coordinates with the Department of Justice in litigation matters; and reviews contract actions.

§ 105-53.139 Office of Plans, Programs, and Financial Management.

(a) *Functions.* The Office of Plans, Programs, and Financial Management (PPFM), headed by the Assistant Administrator for Plans, Programs, and Financial Management, is responsible for centralized agencywide budget and accounting functions; internal allocation and administrative control of resources; and overall agency programs for financial management and internal automatic data processing.

(b) *Regulations.* Regulations pertaining to PPFM programs are published in 41 CFR Chapter 101, Subchapter A. Information on availability of the regulations is provided in § 105-53.116.

§ 105-53.140 Office of Organization and Personnel.

The Office of Organization and Personnel, headed by the Director of Organization and Personnel, plans for and administers GSA-wide programs for staffing, position classification and pay administration, employee relations, training, career development, equal employment opportunity, organization, and staff utilization.

§ 105-53.141 Office of Oversight.

The Office of Oversight, headed by the Director of Oversight, is responsible for conducting independent reviews of agencywide programs within priorities set by the Administrator to determine the effectiveness, efficiency, and economy of GSA activities; oversees agencywide implementation of OMB Circular A-123; serves as the central point of control for audit and inspection reports from the Inspector General and the Comptroller General of the United States; administers GSA's security programs; and directs an agencywide program of administrative services.

§ 105-53.142 Office of Public Affairs.

The Office of Public Affairs, headed by the Director of Public Affairs, is responsible for the planning, implementation, and coordination of all GSA public information and public affairs activities.

§ 105-53.143 Automated Data and Telecommunications Service.

(a) *Creation and authority.* The Automated Data and Telecommunications Service (ADTS), headed by the Commissioner, Automated Data and Telecommunications Service, was established on July 15, 1972, by the Administrator of General Services. The Service was assigned responsibility for administering the Government-wide Automatic Data Processing (ADP) resources management program and the Government-wide telecommunications management program.

(b) *Functions.* ADTS is responsible for directing and managing Government-wide programs for the procurement and use of automatic data processing, office information systems, and telecommunications equipment and services; developing and coordinating Government-wide plans, policies, procedures, regulations, and publications pertaining to ADP and telecommunications activities; managing and operating the Automatic Data Processing (ADP) Fund and the Federal Telecommunications (FT) Fund; managing and operating the Federal Telecommunications System (FTS); planning and directing programs for improving Federal records and information management practices Government-wide; and managing and operating the Federal Information Centers.

(c) *Regulations.* Regulations pertaining to ADTS programs are published in 41 CFR Chapter 1 and 41 CFR Chapter 101, Subchapters B and F. Information on availability of the regulations is provided in §105-53.116.

§ 105-53.144 Federal Property Resources Service.

(a) *Creation and authority.* The Federal Property Resources Service (FPRS), headed by the Commissioner, Federal Property Resources Service, was established on July 18, 1978, by the Administrator of General Services to carry out the utilization and disposal functions for real and personal property and the management of the Strategic and Critical Materials Stockpile.

(b) *Functions.* FPRS is responsible for the reuse of excess real and personal property (except ADP) holdings of the United States Government; maintenance, repair, and rehabilitation of in-use personal property; the donation or sale of surplus real and personal property; and acquiring, maintaining quality, storing, and disposing of the nation's inventory of strategic and critical materials essential to the military and industrial requirements of the United States in times of emergency.

(c) *Regulations.* Regulations pertaining to FPRS programs are published in 41 CFR Chapters 1 and 5A, and 41 CFR Chapter 101, Subchapters C and H. Information on availability of the regulations is provided in § 105-53.116.

§ 105-53.145 Federal Supply Service.

(a) *Creation and authority.* The Federal Supply Service (FSS), headed by the Commissioner, Federal Supply Service, was established on December 11, 1949, by the Administrator of General Services to supersede the Bureau of Federal Supply of the Department of the Treasury, which was abolished by the Federal Property and Administrative Services Act of 1949.

(b) *Functions.* FSS is responsible for determining supply requirements; procuring personal property and nonpersonal services; developing Federal standard purchase specifications and commercial item descriptions; standardizing commodities purchased by the Federal Government; cataloging items of supply procured by civil agencies; managing GSA's Business Service Center Program; and ensuring continuity of supply operations during defense emergency conditions.

(c) *Regulations.* Regulations pertaining to FSS programs are published in 41 CFR Chapters 1, 5, and 5A, and 41 CFR Chapter 101, Subchapters A and E. Information on availability of the regulations is provided in § 105-53.116.

§ 105-53.146 National Archives and Records Service.

(a) *Creation and authority.* The National Archives and Records Service (NARS), under the direction of the Archivist of the United States, was established on December 11, 1949, by the Federal Property and Administrative Services Act of 1949 to succeed the National Archives Establishment originally established by the Act of June 19, 1934 (48 Stat. 1122).

(b) *Functions.* NARS is responsible for providing economical storage in Federal records centers for semiactive and noncurrent Federal records; appraising and scheduling records for appropriate disposition; selecting, preserving, and servicing the permanently valuable noncurrent records of the Federal Government; publishing the laws, constitutional amendments, Presidential documents, and administrative regulations having general applicability and legal effect; and providing for the preservation, publication, and administration of the historical materials in Presidential libraries operated by GSA.

(c) *Regulations.* Regulations pertaining to NARS programs are published in 1 CFR Chapters I and II; 41 CFR Chapter 101, Subchapter B; and 41 CFR Parts 105-61 and 105-63. Information on availability of the regulations is provided in § 105-53.116.

§ 105-53.147 Public Buildings Service.

(a) *Creation and authority.* The Public Buildings Service (PBS), headed by the Commissioner, Public

Buildings Service, was established on December 11, 1949, by the Administrator of General Services to supersede the Public Buildings Administration, which was abolished by the Federal Property and Administrative Services Act of 1949.

(b) *Functions.* PBS is responsible for the design, construction, managment, maintenance, operation, alteration, extension, remodeling, preservation, repair, improvement, protection, and control of buildings, both federally owned and leased, in which are provided housing accommodations for Gorvernment activities; the acquisition, utilization, custody, and accountability for GSA real property and related personal property, and for the Government-wide safety program as it relates to GSA public buildings, and the GSA employee safety and health program; the implementation of Executive Order 11593; and coordinating GSA's activities towards improving the environment as required by the National Environmental Policy Act of 1969.

(c) *Regulations.* Regulations pertaining to PBS programs are published in 41 CFR Chapters 1 and 5B, and 41 CFR Chapter 101, Subchapters D and H. Information on availability of the regulations is provided in § 105-53.116.

§ 105-53.148 Transportation and Public Utilities Service.

(a) *Creation and authority.* The Transportation and Public Utilities Service (TPUS), headed by the Commissioner, Transportation and Public Utilities Service, was established February 1, 1979, by the Administrator of General Services to be responsible for the transportation and public utilities functions formerly assigned to the Federal Supply Service.

(b) *Functions.* TPUS is responsible for developing and implementing Government-wide policies and regulations governing the acquisition and use of transportation and public utilities in the executive agencies; managing the operation of interagency motor pools and motor transport systems; providing procurement support to all civilian and military agencies for nontactical motor vehicles and related equipment; assisting in the improvement of transportation and traffic practices of executive agencies; representing the consumer interest of Federal agencies before public utility regulatory bodies and providing procurement support for public utilities (except telecommunications); auditing transportation bills paid by the U.S. Government; and developing and issuing Government-wide regulations governing transportation, travel, and relocation allowances for civilian employees of Federal agencies.

(c) *Regulations.* Regulations pertaining to TPUS programs are published in 41 CFR Chapter 101, Parts 101-7, 101-38, 101-39, 101-40, and 101-41. Information on availability of the regulations is provided in § 105-53.116.

Subpart C—Regional Offices

§ 105-53.150 Organization and functions.

Regional offices have been established in 11 cities throughout the United States. Each regional office is headed by a Regional Administrator, who is responsible to the Associate Administrator for Operations for the overall direction and administration of the regional office and for the total performance of GSA programs and activities within the region. The overall organizational structure for each region is identical and consists of the following: Regional Administrator, Executive Assistant, Office of Regional Counsel, Office of Project Control and Oversight, Office of Controller, Office of Public Buildings and Real Property, Office of Personal Property, and Office of Information Resources Management. In certain instances, regional offices are assigned national or interregional jurisdiction for a specific program. The geographic composition of each region is shown in § 105-53.151.

§ 105-53.151 Geographic composition; addresses and telephone numbers.

REGIONAL OFFICES—GENERAL SERVICES ADMINISTRATION

Region and Address

No. 1. (Comprising the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont); John W. McCormack Building, Post Office and Courthouse, Boston, MA. 02109. Telephone: 617-232-2100.

No. 2. (Comprising the States of New Jersey and New York, the Commonwealth of Puerto Rico and the Virgin Islands. Exception: FPRS Real and Personal Property functions for the Commonwealth of Puerto Rico and the Virgin Islands are administered by Region 4); 26 Federal Plaza, New York, NY 10007. Telephone: 212-264-3311.

No. 3. (Comprising the States of Maryland, Virginia (except those counties within National Capital Region boundaries), West Virginia, Pennsylvania, and Delaware); Ninth and Market Streets, Philadelphia, PA 19107. Telephone: 215-597-3311.

No. 4. (Comprising the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee; and the FPRS Real and Personal Property functions for the Commonwealth of Puerto Rico and the Virgin Islands); 75 Spring Street SW., Atlanta, GA 30303. Telephone: 404-221-3200.

No. 5. (Comprising the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin); 230 South Dearborn Street, Chicago, IL 60604. Telephone: 312-353-4401.

No. 6. (Comprising the States of Iowa, Kansas, Missouri, and Nebraska); 1500 East Bannister Road, Kansas City, MO 64131. Telephone: 816-926-7201.

No. 7. (Compromising the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas); 819 Taylor Street, Fort Worth, TX 76102. Telephone: 817-334-2321.

No. 8. (Comprising the States of Colorado. Montana, North Dakota, South Dakota, Utah, and Wyoming); Building 41, Denver Federal Center, Denver, CO 80225. Telephone: 303-234-3131.

No. 9. (Comprising Guam and the States of Arizona, California, Hawaii, and Nevada); 525 Market Street, San Francisco, CA 94105. Telephone: 415-556-9000.

No. 10. (Comprising the States of Alaska, Idaho, Oregon, and Washington); GSA Center, Auburn, WA 98002. Telephone: 206-396-5000.

National Capital Region (RW), (Comprising the District of Columbia, the Counties of Montgomery and Prince Georges in Maryland; and the City of Alexandria and the Counties of Arlington, Fairfax, Loudoun, and Prince William in Virginia); Seventh and D Streets, SW, Washington, DC 20407. Telephone: 202-655-4000.

PART 105-54—ADVISORY COMMITTEE MANAGEMENT

Sec.

105-54.000 Scope of part.

Subpart 105-54.1—General Provisions

105-54.101 Applicability.
105-54.102 Definitions.
105-54.103 Policy.
105-54.104 Responsibilities.

Subpart 105-54.2—Establishment of Advisory Committees

105-54.200 Scope of subpart.
105-54.201 Proposals for establishing advisory committees.
105-54.202 Review and approval of proposals.
105-54.203 Advisory committee charters.
105-54.203-1 Preparation of charters.
105-54.203-2 Active charters file.
105-54.203-3 Submission to Library of Congress.
105-54.204 Advisory committee membership.

Subpart 105-54.3—Advisory Committee Procedures

105-54.300 Scope of subpart.
105-54.301 Meetings.
105-54.301-1 Agenda.
105-54.301-2 Security clearance.
105-54.301-3 Time and place.
105-54.301-4 Public notice of meetings.
105-54.301-5 Minutes of meetings.
105-54.301-6 Public attendance and participation.
105-54.302 Committee records and reports.
105-54.303 Fiscal and administrative provisions.
105-54.303a Cost guidelines.
105-54.304 Renewal of advisory committees.
105-54.305 Termination of advisory committees.
105-54.306 Complaint procedures.

Subpart 105-54.4—Reports

105-54.400 Scope of subpart.
105-54.401 Reports on GSA Federal Advisory Committees.

AUTHORITY: Pub. L. 92-463 dated October 6, 1972, and Executive Order 11686 of October 7, 1972, unless otherwise noted.

SOURCE: 38 FR 26604, Sept. 24, 1973, unless otherwise noted. Redesignated at 39 FR 25232, July 9, 1974.

§ 105-54.000 Scope of part.

This part sets forth policies and procedures in GSA regarding the establishment, operation, termination, and control of advisory committees for which GSA has responsibility. It implements the Federal Advisory Committee Act (Pub. L. 92-463), which authorizes a system governing the establishment and operation of advisory committees in the executive branch of the Federal Government, and Executive Order 11686 of October 7, 1972, which directs the heads of all executive departments and agencies to take appropriate action to ensure their ability to comply with the provisions of the Act.

Subpart 105-54.1—General Provisions

§ 105-54.101 Applicability.

This Part 105-64 applies to all advisory committees for which GSA has responsibility. In general, such committees are characterized by fixed membership, a defined purpose of providing advice regarding matters of concern to GSA operations, a formal structure (e.g., officers), and regular or periodic meetings. This part also applies to any committee used to advise GSA officials though not established for that purpose. Such applicability, however, is limited solely to the period of its use as an advisory body. This part does not apply to:

(a) Any local civic group whose primary function is to render a public service in connection with a Federal program;

(b) Any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies; or

(c) The National Historical Publications Commission or the National Archives Trust Fund Board but does apply to committees that are advisory to them.

§ 105-54.102 Definitions.

(a) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee thereof that is:

(1) Established by statute or reorganization plan;

(2) Established or utilized by the President; or

(3) Established or utilized by one or more agencies to obtain advice or recommendation for the President or for one or more agencies or officers of the Federal Government. The term "advisory committee" excludes the Advisory Commission on Intergovernmental Relations, and any committee which is composed wholly of full-time officers of the Federal Government.

(b) The term "Presidential advisory committee" means an advisory committee that advises the President.

(E.O. 11769 of Feb. 21, 1974; 41 CFR Subpart 101-11.12)

[38 FR 26604, Sept. 24, 1973. Redesignated at 39 FR 25232, July 9, 1974, and amended at 42 FR 35649, July 11, 1977]

§ 105-54.103 Policy.

The basic GSA policy on committee management is as follows:

(a) Advisory committees will be formed or used by GSA only when specifically authorized by law or by the President, or specifically determined as a matter of formal record by the Administrator of General Services to be in the public interest in connection with the performance of duties imposed on GSA by law;

(b) Advisory committees will not be used to administer a function which is the assigned responsibility of a service or staff office;

(c) The assigned responsibility of a GSA official may not be delegated to any committee;

(d) No advisory committee may be used for functions that are not solely advisory unless specifically authorized by statute or Presidential directive. Making policy decisions and determining action to be taken with respect to any matter considered by an advisory committee is solely the responsibility of GSA; and

(e) In carrying out its responsibilities, GSA will consult with and obtain the advice of interested groups substantially affected by its programs. The use of advisory committees for this purpose is considered to be in the public interest and necessary for the proper performance by GSA of its assigned functions.

§ 105-54.104 Responsibilities.

(a) Responsibility for coordination and control of committee management in GSA is vested in the Deputy Administrator. This responsibility shall be exercised through the Director of Organization and Management, Office of Human Resources and Organization (HRO), (or a designee). The Director of Organization and Management shall serve as the GSA Committee Management Officer. This Officer shall, on behalf of the Deputy Administrator, carry out the functions prescribed in section 8(b) of the Federal Advisory Committee Act. Specifically, this Officer shall control and supervise the establishment, procedures, and accomplishments of GSA-sponsored advisory committees. This control and supervision shall be adequate to ensure compliance with the GSA guidelines provided by these regulations.

(b) Each Head of Service and Staff Office and Regional Administrator shall designate a Committee Management Officer who shall coordinate and control committee management within the service, staff office, or regional office, and shall act as liaison to the GSA Committee Management Officer. This Officer shall also:

(1) Assemble and maintain the reports, records, and other papers of any advisory committee for which GSA has responsibility. Arrangements may be made, however, for the Government chairman or other designated GSA representative to retain physical custody of such reports, records, and other papers to facilitate committee operations. After the committee is terminated, all committee records shall be disposed of in accordance with existing regulations; and

(2) Within existing agency regulations as found in Part 105-60, carry out the provisions of 5 U.S.C. 552 with respect to the reports, records, and other papers of advisory committees for which GSA is responsible.

(E.O. 11769 of Feb. 21, 1974; 41 CFR Subpart 101-11.12)

[38 FR 26604, Sept. 24, 1973. Redesignated at 39 FR 25232, July 9, 1974, and amended at 44 FR 65071, Nov. 9, 1979]

Subpart 105-54.2—Establishment of Advisory Committees

§ 105-54.200 Scope of subpart.

This subpart prescribes the policy and procedures for establishing advisory committees within GSA.

§ 105-54.201 Proposals for establishing advisory committees.

The Head of a Service or Staff Office may propose establishment of a Central Office or regional advisory committee within the scope of assigned program responsibilities. In doing so, the Head of the Service or Staff Office should pay particular attention to the President's statement in his memorandum to the Heads of Executive Departments and Agencies, dated February 25, 1977, that * * * "I want you to undertake a continuing effort to assure that no new advisory committees are established unless they are essential to meet the responsibilities of the Government." Accordingly, the Head of a Service or Staff Office shall not establish new advisory committees unless there is a compelling need for the committees, the committees have a truly balanced membership, and the committees conduct their business as openly as possible consistent with the law and their mandate. Each proposal shall be submitted to the GSA Committee Management Officer for review and coordination and shall include the following:

(a) A letter to the Office of the Executive Director (NA), NARS, Attn: Committee Management Secretariat, signed by the Head of the Service or Staff Office, with information copies for the Administrator and the Deputy Administrator, describing the nature and purpose of the proposed advisory committee, the reasons why it is needed, the reasons why its functions cannot be performed by an existing committee or Federal agency, and the plans to attain a balanced membership;

(b) A notice for publication in the Federal Register containing a certification by the Administrator that creation of the advisory committee is in the public interest and describing the nature and purpose of the committee; and

(c) A draft charter for review by the Committee Management Secretariat, prepared in the format outlined in § 105-54.203.

[44 FR 65071, Nov. 9, 1979]

§ 105-54.202 Review and approval of proposals.

(a) The GSA Committee Management Officer shall review each proposal for establishment of an advisory committee to ensure comformity with GSA committee management policies and procedures. The GSA Committee Management Officer then shall forward the letter of justification, including the draft charter, to the Committee Management Secretariat.

(b) When notified by the Committee Management Secretariat that establishment of the advisory committee would be in accordance with the Federal Advisory Committee Act, the GSA Committee Management Officer shall secure final clearance and approval of the FEDERAL REGISTER notice in accordance with established GSA procedures. The notice must be published at least 15 calendar days before the filing of a committee charter in accordance with § 105-54.203.

[44 FR 65071, Nov. 9, 1979]

§ 105-54.203 Advisory committee charters.

No advisory committee may meet or take any action until its charter has been approved by the Administrator of General Services and forwarded by the Deputy Administrator to the standing committees of the Senate and the House of Representatives having legislative jurisdiction over GSA. This requirement applies to committees used as advisory committees though not established for that purpose, but only to the extent that the group performs the function of advising a GSA official.

(E.O. 11769 of Feb. 21, 1974; 41 CFR Subpart 101-11.12)

[42 FR 35649, July 11, 1977]

§ 105-54.203-1 Preparation of charters.

(a) The Head of Service or Staff Office having jurisdiction over an advisory committee shall, following publication of the FEDERAL REGISTER notice regarding the establishment of that committee, prepare in final form the committee's charter in accordance with this § 105-54.203. The completed charter shall be forwarded to the Deputy Administrator (Attn: GSA Committee Management Officer) for review, submission to the Administrator for approval, and filing.

(b) Each advisory committee charter shall contain the following information:

(1) The committee's official designation;

(2) The committee objectives and the scope of its activities;

(3) The period of time necessary for the committee to carry out its purposes. If the committee is intended to function as a standing advisory committee, this fact should be made clear;

(4) The official to whom the committee reports, including his name, title, and organization;

(5) The agency and office responsible for providing the necessary support for the committee;

(6) A description of the duties for which the committee is responsible. If such duties are not solely advisory, the statutory or Presidential authority for such additional duties shall be specified;

(7) The estimated annual operating costs in dollars and man-years for the committee;

(8) The estimated number and frequency of committee meetings;

(9) The committee's termination date, if it is less than 2 years from the date of its establishment; and

(10) The date the charter is filed. This date shall be inserted by the GSA Committee Management Officer after the Administrator approves the charter.

(E.O. 11769 of Feb. 21, 1974; 41 CFR Subpart 101-11.12)

[38 FR 26604, Sept. 24, 1973. Redesignated at 39 FR 25232, July 9, 1974, and amended at 44 FR 65071, Nov. 9, 1979]

§ 105-54.203-2 Active charters file.

The original signed copy of each charter shall be retained by the GSA Committee Management Officer in a special file of active charters.

§ 105-54.203-3 Submission to Library of Congress.

A copy of each charter shall be furnished by the GSA Committee Management Officer to the Library of Congress at the time or shortly after copies are filed with the requisite committees of the Congress. Copies shall be forwarded to: Library of Congress, Exchange and Gift Division, Federal Advisory Committee Desk, Washington, D.C. 20540.

§ 105-54.204 Advisory committee membership.

(a) Advisory committees established by GSA shall be representative of the points of view within the profession, industry, or other group to which it relates, taking into account such factors as size, function, geographical location, affiliation, and other relevant considerations affecting the character of an advisory committee. Representatives of the public interest shall be included on any advisory committee concerned with questions of social policy. The Administrator shall designate all members, alternates, and observers, as appropriate, of all advisory committees. He shall also designate a Federal Officer or employee to chair or attend each meeting of each advisory committee. In addition, GSA employees serving on advisory committees sponsored by other Government agencies shall be designated by the Administrator. Nominations and letters of appointment or designation for the Administrator's signature shall be submitted by the appropriate Head of Service or Staff Office or Regional Administrator to the Assistant Administrator (Attn: GSA Committee Management Officer) for review and forwarding to the Administrator.

(b) There shall be no discrimination on the basis of race, color, age, national origin, religion, or sex in the selection of advisory committee membership.

[38 FR 26604, Sept. 24, 1973. Redesignated at 39 FR 25232, July 9, 1974, and amended at 41 FR 2235, Jan. 15, 1976]

Subpart 105-54.3—Advisory Committee Procedures

§ 105-54.300 Scope of subpart.

This subpart sets forth the procedures which will be followed in the operation of advisory committees within GSA.

§ 105-54.301 Meetings.

Each GSA-sponsored advisory committee shall meet only in the presence of a Federal Officer or employee designated by the Administrator. (See § 105-54.204(a).) This designated employee shall be authorized to adjourn any advisory committee meeting whenever he determines adjournment to be in the public interest.

[41 FR 2235, Jan. 15, 1976]

§ 105-54.301-1 Agenda.

An agenda shall be prepared or approved by the Government chairman or designated Government official for each meeting of an advisory committee. The agenda shall list the matters to be considered at the meeting and shall indicate whether any part of the meeting will be closed to the public under the provisions of 5 U.S.C. 552b(c) (Government in the Sunshine Act). Ordinarily, copies of the agenda shall be distributed to committee members before the date of the meeting.

(E.O. 11769 of Feb. 21, 1974; 41 CFR Subpart 101-11.12)

[42 FR 35649, July 11, 1977]

§ 105-54.301-2 Security clearance.

All persons attending advisory committee meetings at which classified information will be considered are required to have an adequate security clearance.

(E.O. 11769 of Feb. 21, 1974; 41 CFR Subpart 101-11.12)

[42 FR 35649, July 11, 1977]

§ 105-54.301-3 Time and place.

Meetings shall be held only at the time and place determined or approved by the Government chairman or designated Government official. Unless otherwise authorized, meetings shall be held in space under the control of the Government.

(E.O. 11769 of Feb. 21, 1974; 41 CFR Subpart 101-11.12)

[42 FR 35649, July 11, 1977]

§ 105-54.301-4 Public notice of meetings.

(a) The Head of the responsible Service or Staff Office or Regional Administrator shall give timely notice of each advisory committee meeting by publication of a notice, over his signature, in the FEDERAL REGISTER at least 15 calendar days before the date of the meeting. (Material for publication in the FEDERAL REGISTER is submitted through the Federal Register liaison officer (BRAI).) Shorter advance notice may be provided in emergency situations, and the reasons for emergency exceptions shall be made part of the meeting notice. In giving notice, consideration must be given to the processing time required to get the notice printed in the FEDERAL REGISTER (at least 4 workdays). In addition to the notice in the FEDERAL REGISTER, announcements may also be made by general press release, direct mailing, publication in trade and professional journals appropriate to the nature of the committee meeting, or to special interest and community groups which may be affected by the committee's deliberations.

(b) The fact that a meeting may be closed to the public pursuant to the exemptions under the Government in the Sunshine Act does not, in general, relieve GSA of the requirement for publication of a notice of that meeting. An exception from this notice requirement may be authorized for reasons of national security by the Committee Management Secretariat upon request by the Head of the Service or Staff Office at least 30 calendar days before the meeting.

(c) Each notice of meeting shall state the name of the advisory committee, the time and place of the meeting, its purpose, and whether (or the extent to which) the public will be permitted to attend or participate. Whenever practicable, a summary of the agenda should be included. (See § 105-54.301-6 for procedures for closed meetings.)

(E.O. 11769 of Feb. 21, 1974; 41 CFR Subpart 101-11.12)

[41 FR 2235, Jan. 15, 1976 and 42 FR 35649, July 11, 1977; 44 FR 65072, Nov. 9, 1979]

§ 105-54.301-5 Minutes of meetings.

Detailed minutes shall be kept of each advisory committee meeting. The minutes shall include at least the following items: The time and place of the meeting; a list of the advisory committee members and staff and agency employees present at the meeting; a complete summary of matters discussed and conclusions reached; copies of all reports received, issued, or approved by the advisory committee; an explanation of the extent to which the meeting was open to the public; and an explanation of the extent of public participation, including a list of members of the public who presented oral or written statements and an estimate of the number of members of the public who attended the meeting. The committee chairman shall certify the accuracy of all minutes.

§ 105-54.301-6 Public attendance and participation.

(a) Each GSA advisory committee meeting shall be open to the public unless the Administrator determines otherwise as provided in § 105-54.301-6(e).

(b) Interested persons shall be permitted to attend, appear before, or file statements with a GSA advisory committee unless the Administrator determines otherwise as provided by § 105-54.301-6(e). When required for the orderly operation of the advisory committee, the FEDERAL REGISTER notice announcing the committee meeting may prescribe appropriate procedures for attendance, appearances, and filing statements.

(c) Advisory committee meetings which are open to the public shall be held at a reasonable time and at a place that is reasonably accessible. The size of the meeting room shall be adequate to accommodate the anticipated public participants in addition to the committee members.

(d) Whenever an advisory committee anticipates widespread public interest in one of its meetings, it may establish procedures for the orderly conduct of that meeting, including the requirement of advance approval for oral participation. Public notice of such procedures shall be given at the time of announcement of the meeting or, in any event, sufficiently in advance of the meeting to permit the public to comply.

(e) An advisory committee meeting will not be open to the public, nor will the attendance, appearance, or filing of statements by interested persons be permitted, whenever the Administrator of General Services determines that the meeting is concerned with matters covered by the exemptions to the Government in the Sunshine Act (5 U.S.C. 552b(c)) and there is sufficient reason to invoke any of these exemptions. If it is determined that only a portion of the meeting is concerned with these matters, only that portion of the meeting shall be closed. Any determinations concerning the closing of meetings shall be submitted in writing by the Head of the Service or Staff Office or Regional Administrator to the Administrator for approval at least 30 calendar days in advance of the scheduled date of the meeting. These determinations should clearly set forth the reasons for closing the meeting. These determinations shall be made available to the public on request.

(f) If any meeting, or portion of a meeting, is closed to public attendance, the advisory committee shall issue a report at least annually setting forth a summary of its activities and such related matters as would be informative to the public consistent with the policy of 5 U.S.C. 552(b). Notice of the availability of the report and instructions on how to gain access to it shall be published in the FEDERAL REGISTER no later than 60 days after its completion. In addition, copies of the report shall be filed with the Library of Congress in accordance with § 105-54.302(b).

(Pub. L. 92-463, dated Oct. 6, 1972, E.O. 11686, Oct. 7, 1972 and E.O. 11769, Feb. 21, 1974; 41 CFR Subpart 101-11.12)

[38 FR 26604, Sept. 24, 1973. Redesignated at 39 FR 25232, July 9, 1974, and amended at 41 FR 2236, Jan. 15, 1976; 42 FR 35649, July 11, 1977]

§ 105-54.302 Committee records and reports.

(a) Subject to the Freedom of Information Act (5 U.S.C. 552), the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents that were available to or prepared for or by a GSA advisory committee shall be available (until the committee ceases to exist) for public inspection and copying in the office of the Government chairman or designated Government official of the committee. Requests for inspection or copying of these records shall be processed in accordance with the provisions found in 41 CFR 105-60.4. Except where prohibited by contractual agreement entered into before January 5, 1973, copies of transcripts, if any, of advisory committee meetings shall be made available by the Government chairman or designated Government official to any person at the actual cost of duplication. After the committee has been terminated, disposition of the committee documents enumerated above and the subsequent release of information therefrom shall be in accordance with existing Federal records, statutes, and regulations.

(b) Subject to 5 U.S.C. 552(b) and instructions of the Director of the Office of Management and Budget, at least eight copies of each report made by an advisory committee shall be filed by its Government chairman or designated Government official with the Library of Congress at the time of its issuance. Where appropriate, copies of background papers prepared by consultants to the advisory committee shall also be filed with the Library of Congress. The letter of transmittal shall identify the materials being furnished, and a copy of the transmittal shall be provided to the GSA Committee Management Officer.

(E.O. 11769 of Feb. 21, 1974; 41 CFR Subpart 101-11.12)

[42 FR 35650, July 11, 1977]

§ 105-54.303 Fiscal and administrative provisions.

(a) The Head of each Service or Staff Office and Regional Administrators shall ensure that in accordance with established GSA procedures, records are maintained which fully disclose the disposition of funds at the disposal of an advisory committee and the nature and extent of its activities.

(b) In those instances in which GSA is assigned administrative support responsibilities for a Presidential advisory committee, the Agency Liaison Division, Office of Administrative Services, Office of Human Resources and Organization, GSA, as a part of its support services, shall arrange with the Office of Finance, Office of Management, Policy, and Budget, for the maintenance of all necessary financial records.

(c) Unless otherwise provided in the applicable Presidential order, statute, or other establishing authority, the GSA service or staff office sponsoring an advisory committee shall provide the necessary support services for operation of that committee.

(d) The guidelines in paragraphs (d) through (j) of this section are established under the authority of section 7(d) of the Federal Advisory Committee Act, 86 Stat. 773. They shall apply to the pay of members, staff, and consultants of an advisory committee, except that nothing in paragraphs (d) through (j) of this section shall affect a rate of pay or a limitation on a rate of pay that is specifically established by statute or a rate of pay established under the General Schedule classification and pay system in Chapter 51 and subchapter III of Chapter 53 of title 5, U.S.C.

(e) The pay of the members of an advisory committee shall be fixed to the daily equivalent of a rate of the General Schedule in 5 U.S.C. 5332 unless the members are appointed as consultants and compensated as provided in paragraph (g) of this section. The pay, however, may not be fixed at a rate higher than the daily equivalent of the maximum rate for GS-15 unless the Administrator has personally determined that, under the factors set forth in paragraph (f) of this section, a higher rate of pay is justified and necessary. Such a determination must be reviewed by the Administrator annually. In determining an appropriate rate of pay for the members of an advisory committee, consideration shall be given to the significance, scope, and technical complexity of the matters with which the advisory committee is concerned and the qualifications required of the members of the committee. Members serving on advisory committees established by the Administrator pursuant to his authority under the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(g)), shall serve without compensation.

(f) The pay of each member of the staff of an advisory committee shall be fixed at a rate of the General Schedule in which the staff member's position would appropriately be placed were the General Schedule classification system in Chapter 51 of title 5, U.S.C., applicable to the position. The pay, however, may not be fixed at a rate higher than the daily equivalent of the maximum rate for GS-15 unless the Administrator has determined that, under the General Schedule classification system, the staff member's position would appropriately be placed in the General Schedule grade higher than GS-15. This determination must be reviewed by the Administrator annually.

(g) The pay of a consultant to an advisory committee shall be fixed after giving consideration to the qualifications required of the consultant and the significance, scope, and technical complexity of the work. The rate of pay shall not exceed the maximum rate of pay which the agency may pay experts and consultants under 5 U.S.C. 3109.

(h) The provisions of this section shall not prevent the acceptance of voluntary services of a member of an advisory committee or a member of the staff of an advisory committee.

(i) The members of an advisory committee and the staff thereof, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5702 and 5703.

(j) Nothing in paragraphs (d) through (j) of this section shall prevent: (1) An individual who (without regard to his service with an advisory committee) is a full-time employee of the United States or (2) an individual who immediately before his service with an advisory committee was such an employee, from receiving compensation at the rate at which he, otherwise, would be compensated (or was compensated) as a full-time employee of the United States.

(Pub. L. 92-463 dated Oct. 6, 1972; E.O. 11769 of February 21, 1974; and FPMR Amendment B-28, 41 CFR, Chapter 101, (40 FR 58134, October 14, 1975))

[38 FR 26604, Sept. 24, 1973. Redesignated at 39 FR 25232, July 9, 1974, and amended at 41 FR 2236, Jan. 15, 1976; 41 FR 47441, Oct. 29, 1976; 44 FR 65072, Nov. 9, 1979]

§ 105-54.303a Cost guidelines.

(a) The reporting and estimating of the costs of advisory committees shall include direct obligations for the following items:

(1) Personnel compensation of committee members; consultants to the committee; all permanent, temporary, or part-time (GS, WB, or other) positions which are a part of or supportive to the committee; and all overtime related to committee functions (Personnel compensation should reflect all actual or estimated Federal person-years or parts thereof devoted to a particular committee's activities. It should also include the compensation of Federal employees assigned to committees, on a reimbursable or nonreimbursable basis, from agencies or departments other than that to which the committee reports);

(2) Personnel benefits associated with the above compensation (10 percent of basic payroll);

(3) Travel costs (including per diem) of committee members; consultants; and all permanent, temporary, or part-time positions which are a part of or supportive to the committee;

(4) Transportation of things, communications, and printing and reproduction;

(5) Rent for additional space acquired for committee use;

(6) Other services required by the committee, including data processing services, management studies and evaluations, contractual services, and reimbursable services; and

(7) Supplies, materials, and equipment acquired for committee use.

(b) The reporting and estimating of the costs of advisory committees shall not include indirect or overhead costs; e.g., the costs of the committee management system (committee management officers, etc.).

(E.O. 11769 of Feb. 21, 1974; 41 CFR Subpart 101-11.12)

[42 FR 35650, July 11, 1977]

§ 105-54.304 Renewal of advisory committees.

(a) The anniversary date for renewal of a nonstatutory advisory committee in existence when the Federal Advisory Committee Act became effective shall be January 5, 1975, and every 2 years thereafter. Each advisory committee established after January 4, 1973, may be renewed for successive 2-year periods beginning with the actual date of its establishment.

(a-1) Advisory committees shall not be renewed unless there is a compelling need for the committees, the committees have a truly balanced membership, and the committees conduct their business as openly as possible consistent with the law and their mandate.

(b) Except in instances in which the continued existence of an advisory committee is provided for by law, the renewal of an advisory committee requires that the Head of the responsible Service or Staff Office submit to the GSA Committee Management Officer the following:

(1) An updated charter with a full explanation of the need for the renewal of the committee. (See § 105-54.203-1 for the contents of the charter.) The charter and explanation shall be furnished 60 calendar days prior to the 2-year anniversary date of the committee;

(2) A letter signed by the Head of the Service or Staff Office to the Office of the Executive Director (NA), NARS, Attn: Committee Management Secretariat, with information copies to

the Administrator and the Deputy Administrator, setting forth:

(i) The determination that renewal is necessary and is in the public interest;

(ii) The reasons for the determination;

(iii) GSA's plan to attain balanced membership of the committee; and

(iv) An explanation of why the committee's functions cannot be performed by GSA or by an existing advisory committee.

(3) A notice for publication in the FEDERAL REGISTER containing a certification by the Administrator that renewal of the advisory committee is in the public interest and describing the nature and purpose of the committee.

(c) Upon receipt of the above documents, the GSA Committee Management Officer shall submit the renewal letter (see paragraph (b)(2) of this section) to the Committee Management Secretariat not more than 60 calendar days nor less than 30 calendar days before the committee expires. Following receipt of the Committee Management Secretariat concurrence in the committee renewal, the Deputy Administrator shall publish notice of the renewal in the FEDERAL REGISTER and file copies of the updated charter as prescribed in § 105-54.203.

(d) No advisory committee required to file a new charter shall take any action other than the preparation of the charter between the date the new charter is required and the date it is actually filed.

(Pub. L. 92-463 dated October 6, 1972; E.O. 11769 of February 21, 1974; and FPMR Amendment B-28, 41 CFR, Chapter 101, (40 FR 48134, October 14, 1975))

[38 FR 26604, Sept. 24, 1973. Redesignated at 39 FR 25232, July 9, 1974, and amended at 41 FR 2236, Jan. 15, 1976; 42 FR 35650, July 11, 1977; 44 FR 65072, Nov. 9, 1979]

§ 105-54.305 Termination of advisory committees.

(a) An advisory committee which has fulfilled its purpose as stated in its charter shall be terminated as soon as possible by the sponsoring Head of Service or Staff Office by written notification to the GSA Committee Management Officer.

(b) Failure to effect the continuation of an advisory committee by no later than each successive anniversary date will result in the automatic termination of that committee.

§ 105-54.306 Complaint procedures.

(a) Any person whose request for access to an advisory committee document is denied may seek administrative review pursuant to Part 105-60, which implements the Freedom of Information Act.

(b) On matters not involving access to documents, written compliants may be filed by aggrieved individuals or organizations with the General Services Administration (AD), Washington, D.C. 20405. Such complaints must be filed within 90 calendar days from the date the grievance arose. The Deputy Administrator shall promptly act upon the complaint, and written notice of its disposition shall be provided to the complainant.

(Pub. L. 92-463 dated October 6, 1972; E.O. 11769 of February 21, 1974; and FPMR Amendment B-28, 41 CFR, Chapter 101, (40 FR 48134, October 14, 1975))

[38 FR 26604, Sept. 24, 1973. Redesignated at 39 FR 25232, July 9, 1974, and amended at 41 FR 47442, Oct. 29, 1976]

Subpart 105-54.4—Reports

§ 105-54.400 Scope of subpart.

This subpart sets forth the reports required by this Part 105-64 and prescribes instructions for submission of the reports.

§ 105-54.401 Reports on GSA Federal Advisory Committees.

(a) By January 5 of each year, the Head of the Service or Staff Office shall conduct a comprehensive review of each advisory committee under his jurisdiction in existence during the preceding calendar year and shall report to the Deputy Administrator (Attn: GSA Committee Management Officer) on the results of this review and on the activities of each committee. Detailed instructions for the conduct of the comprehensive review including preparation of the report will be issued by the GSA Committee Management Officer. The report on committee activities shall be submitted on the following report forms:

(1) Standard Form 248, Annual Report on Federal Advisory Committee (original and five copies);

(2) Standard Form 248-A, Annual Report on Federal Advisory Committee (continuation sheet) (original and five copies);

(3) Standard Form 249, Membership List on Federal Advisory Committee (original and five copies); and

(4) Standard Form 249-A, Membership List on Federal Advisory Committee (continuation sheet) (original and five copies).

(b) Necessary forms will be provided by the GSA Committee Management Officer.

(c) By January 15 of each year, the GSA Committee Management Officer shall submit to the Office of Records Management, NARS, the agency annual report required by FPMR 101-11.12. In addition to Standard Forms 248, 248-A, 249 and 249-A, the report will include Standard Form 250, Annual Report on Federal Advisory Committees Summary Sheet.

(d) By April 1 of each year, the GSA Committee Management Officer shall prepare for the signature of the Administrator and submittal to the Committee Management Secretariat, GSA, a report on the annual comprehensive review of advisory committees. This report shall consist of:

(1) The results of the annual comprehensive review, in duplicate, of each GSA advisory committee in existence during the preceding calendar year;

(2) A brief description of the agency's annual comprehensive review procedures and process; and

(3) A letter of transmittal for the review(s), constituting a determination that the continuation of the committees proposed to be continued is in the public interest.

(Pub. L. 92-463 dated October 6, 1972; EO 11769 of February 21, 1974, EO 12024 of December 1, 1977; and FPMR Amendment B-28, 41 CFR, Chapter 101, (40 FR 48134; October 14, 1975))

[41 FR 2236, Jan. 15, 1976, as amended at 42 FR 35650, July 11, 1977; 44 FR 65072, Nov. 9, 1979]

PART 105-60—PUBLIC AVAILABILITY OF AGENCY RECORDS AND INFORMATIONAL MATERIALS

Sec.
105-60.000 Scope of part.

Subpart 105-60.1—General Provisions

105-60.101 Purpose.
105-60.102 Application.
105-60.103 Policy.
105-60.103-1 Availability of records.
105-60.103-2 Applying exemptions.
105-60.104 Records of other agencies.
105-60.105 Inconsistent directives of GSA superseded.

Subpart 105-60.2—Publication of General Agency Information and Rules in the Federal Register

105-60.201 Published information and rules.
105-60.202 Published materials available for sale to the public.

Subpart 105-60.3—Availability of Opinions, Orders, Policies, Interpretations, Manuals, and Instructions

105-60.301 General.
105-60.302 Available materials.
105-60.303 Rules for public inspection and copying.
105-60.304 Index.
105-60.305 Fees.
105-60.305-1 Scope of section.
105-60.305-2 Record material available without charge.
105-60.305-3 Copy of GSA records available at a fee.
105-60.305-4 Waiver of fee.
105-60.305-5 Searches.
105-60.305-6 Prepayment of fees over $10.
105-60.305-7 Form of payment.
105-60.305-8 Fee schedule.
105-60.305-9 Fees for authenticated and attested copies.

Subpart 105-60.4—Described Records

105-60.401 General.
105-60.402 Procedures for making records available.
105-60.402-1 Submission of requests for described records.
105-60.402-2 Response to initial requests.
105-60.403 Appeal within GSA.
105-60.404 Extension of time limits.

Subpart 105-60.5—Exemptions

105-60.501 Categories of records exempt from disclosure under FOIA.

Subpart 105-60.6—Subpoenas or Other Legal Demands for Records

Sec.
105-60.601 Service of subpoena or other legal demand.
105-60.601-1 GSA administrative records.
105-60.601-2 Records transferred to the National Archives and Records Service.

AUTHORITY: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486(c); and 5 U.S.C. 552 (Pub. L. 90-23, as amended by Pub. L. 93-502).

SOURCE: 46 FR 8514, Jan. 27, 1981, unless otherwise noted.

§ 105-60.000 Scope of part.

This part sets forth policies and procedures concerning the availability to the public of records held by GSA with respect to: (a) Agency organization, functions, decisionmaking channels, and rules and regulations of general applicability, (b) agency final opinions and orders, including policy statements and staff manuals, (c) operational and other appropriate agency records, and (d) agency proceedings. This part also covers exemptions from disclosure of these records; procedures for the guidance of the public in inspecting and obtaining copies of GSA records; and the service of a subpoena or other legal demand with respect to records.

Subpart 105-60.1—General Provisions

§ 105-60.101 Purpose.

This Part 105-60 implements the provisions of the Freedom of Information Act, 5 U.S.C. 552 ("FOIA") (Pub. L. 90-23, which codified Pub. L. 89-487 and amended section 3 of the Administrative Procedure Act, formerly 5 U.S.C. 1002 (1964 ed.); and Pub. L. 93-502, popularly known as the Freedom of Information Act Amendments of 1974.) This part prescribes procedures by which the public may inspect and obtain copes of GSA records under the FOIA.

§ 105-60.102 Application.

This Part 105-60 applies to all records and informational materials generated, developed, or held by GSA which come within the scope of 5 U.S.C. 552.

§ 105-60.103 Policy.

§ 105-60.103-1 Availability of records.

GSA records are available to the greatest extent possible in keeping with the spirit and intent of the FOIA. GSA will furnish them promptly to any member of the public upon request addressed to the office designated in § 105-60.402-1 at fees specified in § 105-60.305-8. The person making the request need not have a particular interest in the subject matter, nor must that person provide justification for the request. The requirement of the FOIA that records be available to the public refers only to records in being at the date of the request and imposes no obligation on GSA to compile a record in response to a request.

§ 105-60.103-2 Applying exemptions.

GSA may deny a request for a GSA record if the records falls within an exemption to the FOIA as outlined in Subpart 105-60.5. Except when a record is classified or when disclosure would violate any Federal statute, the authority to withhold a record from disclosure is permissive rather than mandatory. GSA will not withhold a record unless there is a compelling reason to do so. In the absence of a compelling reason, GSA will disclose a record although it otherwise is subject to exemption.

§ 105-60.104 Records of other agencies.

(a) *Other agencies' records managed and administered by GSA.* The availability of records of other agencies located in the National Archives of the United States and Federal Archives and Records Centers is governed by Part 105-61 (Public Use of Records, Donated Historical Materials, and Facilities in the National Archives and Records Service).

(b) *Current records of other agencies.* If GSA receives a request to make available current records that are the primary responsibility of another agency, GSA will refer the request to the agency concerned for appropriate action. GSA will inform the requester that GSA has forwarded the request to the responsible agency.

§ 105-60.105 Inconsistent directives of GSA superseded.

Any policies and procedures in any GSA directive that are inconsistent with the policies and procedures set forth in this Part 105-60 are superseded to the extent of that inconsistency.

Subpart 105-60.2—Publication of General Agency Information and Rules in the Federal Register

§ 105-60.201 Published information and rules.

In accordance with paragraph (a)(1) of the FOIA (5 U.S.C. 552(a)(1)), GSA publishes in the FEDERAL REGISTER, for the guidance of the public, the following general information concerning GSA:

(a) Description of the organization of the Central Office and regional offices and the established places at which, the employees from whom, and the methods whereby the public may obtain information, make submittals or requests, or obtain decisions.

(b) Statements of the general courses and methods by which GSA functions are channeled and determined, including the nature and requirements of all formal and informal procedures available.

(c) Rules of procedure, descriptions of forms available or the places where forms may be obtained, and instructions on the scope and contents of all papers, reports, or examinations.

(d) Substantive rules of general applicability adopted as authorized by law and statements of general policy or interpretations of general applicability formulated and adopted by GSA.

(e) Each amendment, revision, or repeal of the materials described in this § 105-60.201.

§ 105-60.202 Published materials available for sale to the public.

Substantive rules of general applicability adopted by GSA as authorized by law which this agency publishes in the FEDERAL REGISTER and which GSA makes available for sale to the public are the Federal Procurement Regulations, the General Services Administration Procurement Regulations, the Federal Property Management Regulations, and the General Services Administration Office of Acquisition Policy Regulations. These series of regulations are codified in Title 41 of the Code of Federal Regulations and also are published in looseleaf volume form. The looseleaf version of the Federal Procurement Regulations is available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, at prices established by that office. In addition, all of these regulations are available for sale by the Superintendent of Documents in (a) daily FEDERAL REGISTER form and (b) Code of Federal Regulations form, at prices established by that office.

Subpart 105-60.3—Availability of Opinions, Orders, Policies, Interpretations, Manuals, and Instructions

§ 105-60.301 General.

GSA makes available for public inspection and copying the materials described in paragraph (a)(2) of the FOIA (5 U.S.C. 552(a)(2)), which are listed in § 105-60.302, and an Index of those materials as described in § 105-60.304, at convenient locations and times. Central Office materials are located in Washington, DC; some are also available at GSA regional offices. Each regional office has the materials of its region. All locations provide public reading rooms or selected areas for the inspection and copying of documents. Reasonable copying services are furnished at fees specified in § 105-60.305.

§ 105-60.302 Available materials.

GSA materials available under this Subpart 105-60.3 are as follows:

(a) Final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases.

(b) Those statements of policy and interpretations which have been adopted by GSA and are not published in the FEDERAL REGISTER.

(c) Administrative staff manuals and instructions to staff affecting a member of the public unless these materials are promptly published and copies offered for sale. (Any materials published and offered for sale also will be available in each reading room.)

§ 105-60.303 Rules for public inspection and copying.

(a) *Locations.* Reading rooms or selected areas containing the materials available for public inspection and copying, described in § 105-60.302, are located in the following places:

CENTRAL OFFICE

(GSA Headquarters), Washington, DC, Telephone: 202-566-1240

General Services Administration, 18th & F Sts. NW., Library (Room 1033), Washington, DC 20405

REGION 1

Boston, Massachusetts (Comprising the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont). Telephone: 617-223-2868

Business Service Center, General Services Administration, John W. McCormack Building, Post Office & Courthouse, Boston, MA 02109

REGION 2

New York, New York (Comprising the States of New Jersey, New York, the Commonwealth of Puerto Rico and the Virgin Islands). Telephone: 212-264-1234

Business Service Center, General Services Administration, 26 Federal Plaza, NY, NY 10007

NATIONAL CAPITAL AREA

Washington, DC (Comprising the District of Columbia and the metropolitan area). Telephone: 202-472-1804

Business Service Center, General Services Administration, 7th & D Streets SW., Rm. 1050, Washington, DC 20407

REGION 3

Philadelphia, Pennsylvania (Comprising the States of Delaware, Maryland, Pennsylvania, Virginia, and West Virginia). Telephone: 215-597-9613

Business Service Center, General Services Administration, 9th & Market Sts., Rm. 5142, Philadelphia, PA 19107

REGION 4

Atlanta, Georgia (Comprising the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee). Telephone: 404-221-5103

Business Service Center, General Services Administration, Richard B. Russell Federal Building, U.S. Courthouse, 75 Spring Street SW., Atlanta, GA 30303

REGION 5

Chicago, Illinois (Comprising the States of Illinois, Indiana, Michigan, Ohio, Minnesota, and Wisconsin). Telephone: 312-353-5383

Business Service Center, General Services Administration, 230 South Dearborn Street, Chicago, IL 60604

REGION 6

Kansas City, Missouri (Comprising the States of Iowa, Kansas, Missouri, and Nebraska). Telephone: 816-926-7203

Business Service Center, General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131

REGION 7

Fort Worth, Texas (Comprising the States of Arkansas, Louisiana, New Mexico, Texas, and Oklahoma). Telephone: 817-334-3284

Business Service Center, General Services Administration, 819 Taylor Street, Fort Worth, TX 76102

REGION 8

Denver, Colorado (Comprising the States of Colorado, North Dakota, South Dakota, Montana, Utah, and Wyoming). Telephone: 303-324-2216

Business Service Center, General Services Administration, Building 41, Denver Federal Center, Denver, CO 80225

REGION 9

San Francisco, California (Comprising the States of Hawaii, California, Nevada, and Arizona). Telephone: 415-556-0877

Business Service Center, General Services Administration, 525 Market Street, San Francisco, CA 94105

REGION 10

Seattle, Washington (Comprising the States of Alaska, Idaho, Oregon, and Washington). Telephone: 206-442-5556

Business Service Center, General Services Administration, 440 Federal Building, 915 Second Avenue, Seattle, WA 98174

(b) *Time.* The reading rooms or selected areas will be open to the public during the hours of business of the GSA office in which they are located.

(c) *Copying.* GSA will furnish reasonable copying services at fees specified in § 105-60.305. The fees will be posted in each reading room or selected area. In suitable circumstances, a member of the public may receive authorization to copy materials personally under the procedures determined by the authorizing official (the Director of Public Information in the Central Office or the Assistant Regional Administrator for External Affairs in the regional offices).

(d) *Reading room and selected area rules.* (1) *Age.* GSA will not give permission to inspect materials to a person under 16 years of age unless accompanied by an adult who agrees to remain with the minor while the minor uses the materials.

(2) *Handling of materials.* The unlawful removal or mutilation of materials is forbidden by law and is punishable by fine or imprisonment or both. When requested by a reading room or selected area attendant, a person inspecting materials must present for examination any briefcase, handbag, notebook, package, envelope, book, or other article that could contain GSA informational materials.

(3) *Reproduction services.* The GSA Central Office Library or the Regional Business Service Centers will furnish "reasonable reproduction" services for available materials at the fees specified in § 105-60.305.

§ 105-60.304 Index.

GSA will maintain and make available for public inspection and copying current indexes arranged by subject matter providing identifying information for the public regarding any matter issued, adopted, or promulgated after July 4, 1967, and described in § 105-60.302. GSA will publish quarterly and make available copies of each index or supplements thereto. The index will be maintained for public inspection in each reading room.

§ 105-60.305 Fees.

§ 105-60.305-1 Scope of section.

This section set forth policies and procedures to be followed in the assessment and collection of fees from a requester for the search and reproduction of GSA records.

§ 105-60.305-2 Record material available without charge.

Each GSA reading room or selected area provides a rack displaying GSA records available to the public in that region. Certain material related to bids (excluding construction plans and specifications) and any material displayed on the rack are available without charge upon request.

§ 105-60.305-3 Copy of GSA records available at a fee.

GSA will make a record not subject to exemption available at a time and place mutually agreed upon by GSA and the requester. GSA will agree either to (a) show the originals to the requester, (b) make one copy available at a fee, or (c) a combination of these alternatives. In the case of voluminous materials, GSA will make copies as quickly as possible. GSA may make a reasonable number of additional copies at a fee when commercial reproduction services are not available to the requester.

§ 105-60.305-4 Waiver of fee.

Any request for waiver or reduction of a fee should be included in the initial letter requesting access to GSA records under § 105-60.402-1. The waiver request should explain how waiver of fees primarily would benefit the public and should comment on the following:

(a) How release of the records in whole or in part primarily will benefit the general public interest rather than a commercial, financial or other private interest, specifically;

(1) Whether the requested information is available to the general public through other sources;

(2) How disclosure of the records will enhance civic activities or the quality of national life (e.g., in the areas of public safety, public health, economic

well-being, and integrity and efficiency in government);

(3) How the requester intends to disseminate the records (or the public benefits resulting from the disclosure of the records) to a substantial part of the general public.

(b) How waiver of fees will meet the needs of indigent persons or relieve substantial personal hardship.

(c) How the cooperation of the requester has limited a costly request resulting in a reduction of GSA processing costs.

§ 105-60.305-5 Searches.

(a) GSA may charge for the time spent in the following activities in determining "search time" subject to applicable fees as provided in § 105-60.305-8:

(1) Time spent in trying to locate GSA records which come within the scope of the request;

(2) Time spent in either transporting a necessary agency searcher to a place of record storage, or in transporting records to the locations of a necessary agency searcher; and

(3) Direct costs involving the use of computer time to locate and extract requested records.

(b) GSA will not charge for the time spent in the following activities in determining "search time" subject to applicable fees as provided in § 105-60.305-8:

(1) Time spent in examining a requested record to determine whether GSA can or should assert an exemption; or

(2) Time spent in deleting exempt matter being withheld from records otherwise made available; or

(3) Time spent in monitoring a requester's inspection of disclosed agency records; or

(4) Time spent in operating reproduction facilities.

§ 105-60.305-6 Prepayment of fees over $10.

GSA will require prepayment of fees for search and reproduction which are likely to exceed $10. When the anticipated total fee exceeds $10, the requester will receive notice to prepay, and GSA will remit the excess paid by the requester or will bill the requester an additional amount according to variations between the final fee and the amount prepaid.

§ 105-60.305-7 Form of payment.

Requesters should pay fees by check or money order made out to the General Services Administration and addressed to the official named by GSA in its correspondence.

§ 105-60.305-8 Fee schedule.

In computing applicable fees, GSA will consider only the following costs in providing the requested records:

(a) *Reproduction fees.* (1) The fee for reproducing copies of GSA records (by routine electrostatic copying) up to and including 8½ by 14 inches is $0.10 per page.

(2) The fee for reproducing copies of GSA records over 8½ by 14 inches or whose physical characteristics do not permit reproduction by routine electrostatic copying or which require reduction, enlargement, or other special technical services is the direct cost of reproducing the records through Government or commerical sources.

(b) *Search fees.* (1) The standard search fee is $5 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

(2) When GSA must use professional staff to search for the requested records because clerical staff would be unable to locate them, the search fee is $10 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

(3) When the search includes nonpersonnel expenditures to locate and extract requested records, such as computer time or transportation expenses, the applicable fee is the direct cost to GSA.

§ 105-60.305-9 Fees for authenticated and attested copies.

The fees set forth in § 105-60.305-8 apply to requests for authenticated and attested copies of GSA records.

Subpart 105-60.4—Described Records

§ 105-60.401 General.

(a) Except for records made available in accordance with Subparts 105-

60.2 and 105-60.3, GSA promptly will make records available to a requester when the request reasonably describes the records unless GSA invokes an exemption in accordance with Subpart 105-60.5. Although the burden of reasonable description of the records rests with the requester, GSA will assist in identification.

(b) Upon receipt of a request that does not reasonably describe the records requested, GSA may contact the requester to seek a more specific description. The 10-workday time limit set forth in § 105-60.402-2 will not start until the official identified in § 105-60.402-1 receives a request reasonably describing the records.

§ 105-60.402 Procedures for making records available.

This section sets forth initial procedures for making records available when they are requested. These procedures do not apply to records of other agencies that have been transferred to the National Archives and Records Service in accordance with the Federal Records Act of 1950 (44 U.S.C. 2103 and 3103); in those cases, the procedures in Part 105-61 govern.

§ 105-60.402-1 Submission of requests for described records.

For records located in the GSA Central Office, the requester should submit a request in writing to the director of Public Information, General Services Administration (XI), Washington, DC 20405. For records located in the GSA regional offices, the requester should submit a request to the Assistant Regional Administrator for External Affairs for the relevant region, at the address listed in § 105-60.303(a). Requests should include the words, "FREEDOM OF INFORMATION REQUEST," prominently marked on both the face of the request letter and the envelope. The 10-workday time limit for agency decisions set forth in § 105-60.402-2 begins with receipt of a request in the office of the appropriate official identified in this section. A requester who has questions concerning an FOIA request may consult the GSA Director of Public Information, 18th and F Streets NW., Washington, DC 20405 (202) 566-1231.

§ 105-60.402-2 Response to initial requests.

GSA will mail a response to an initial FOIA request within 10 workdays (that is, excluding Saturdays, Sundays, and legal public holidays) after receipt of a request by the office of the appropriate official specified in § 105-60.402-1. In unusual circumstances, GSA will inform the requester of the agency's need to take an extension of time.

§ 105-60.403 Appeal within GSA.

(a) A requester who receives a denial, in whole or in part, of a request may appeal that decision within GSA. The requester shall direct the appeal to the Director of Public Information, General Services Administration (XI), Washington, DC 20405, regardless whether the denial being appealed was made by a Central Office official or by a Regional Administrator.

(b) The Director of Public Information must receive an appeal no later than 30 calendar days after receipt by the requester of the initial denial of access.

(c) The requester must appeal in writing and include a brief statement of the reasons he or she thinks GSA should release the records and enclose copies of the initial request and denial. The appeal letter should include the words, "FREEDOM OF INFORMATION APPEAL," on both the face of the appeal letter and on the envelope. GSA has 20 workdays after the receipt of an appeal to make a determination with respect to the appeal. The 20-workday time limit shall not begin until the office of the Director of Public Information receives the appeal.

(d) If the Administrator of General Services made the initial denial, there shall be no right to appeal within GSA.

(e) A requester who has received a denial of an appeal, or who has no right of appeal within GSA, may seek judicial review of GSA's decision in the United States district court in the district in which the requester resides or has a principal place of business, or where the records are situated, or in the District of Columbia.

Best Available Copy

§ 105-60.404 Extension of time limits.

In unusual circumstances the Director of Public Information may extend the time limits prescribed in §§ 105-60.402 and 105-60.403. GSA will provide a written notice to the requester of any extension of time limits.

Subpart 105-60.5—Exemptions

§ 105-60.501 Categories of records exempt from disclosure under the FOIA.

(a) 5 U.S.C. 552(b) provides that the requirements of the FOIA do not apply to matters that are:

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and that are, in fact, properly classified under the Executive order;

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from disclosure by statute, other than the Privacy Act, provided that the statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person that are privileged or confidential;

(5) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of these records would:

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(v) Disclose investigative techniques and procedures; or

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; and

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) GSA will provide any reasonably segregable portion of a record to a requester after deletion of the portions that are exempt under this section.

(c) GSA will invoke no exemption under this section if the requested records would be available under the Privacy Act of 1974 and implementing regulations, Part 105-64, or if disclosure would cause no demonstrable harm to any public or private interest.

Subpart 105-60.6—Subpoenas or Other Legal Demands for Records

§ 105-60.601 Service of subpoena or other legal demand.

§ 105-60.601-1 GSA administrative records.

(a) A subpoena duces tecum or other legal demand for the production of records held by GSA should be addressed to the General Counsel, General Services Administration (L), Washington, DC 20405, with respect to GSA Central Office records; to the appropriate Regional Counsel, for records in GSA regional offices; or to the Administrator of General Services.

(b) The General Counsel, Deputy General Counsel, Assistant General Counsels, Inspector General, and, with respect to records in a GSA regional office, also the Regional Administrator and Regional Counsel are the only GSA employees authorized to accept service of a subpoena duces tecum or

Best Available Copy

other legal demands on behalf of GSA.

§ 105.60.601-2 Records Transferred to the National Archives and Records Service.

(a) Access to records transferred to a Federal Archives and Records Center (see § 105-61.001-3) is controlled by the instructions and restrictions imposed on GSA by the Federal agency that transferred the records to the Federal Records Center. GSA will honor a subpoena duces tecum or other legal demand for the production of these records, to the extent required by law, if the transferring agency has imposed no restrictions. In contrast, when the transferring agency has imposed restrictions, GSA will notify the authority issuing the subpoena or other legal demand and will request authority to pursue the matter directly with the transferring agency.

(b) The Administrator of General Services, the Archivist of the United States, the General Counsel, the Deputy General Counsel, the Assistant General Counsels, the Regional Administrators, and the Regional Counsels, as appropriate, and the Director of the Federal Archives and Records Center in which records are stored are the only GSA officials authorized to accept a subpoena or other legal demand for records transferred to a Federal Archives and Records Center.

(c) A subpoena duces tecum or other legal demand for the production of records designated as "archives" or "donated historical materials" administered by the National Archives and Records Service (see §§ 105-61.001-2 and 105-61.001-4) may be served only on the Administrator of General Services, the Archivist of the United States, the General Counsel, or the appropriate Assistant Archivist, Regional Counsel, Director of a Federal Archives and Records Center, or Director of a Presidential Library.

PART 105-61—PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIALS, AND FACILITIES IN THE NATIONAL ARCHIVES AND RECORDS SERVICE

Sec.

105-61.000 General.
105-61.000-1 Scope.
105-61.000-2 Authority for issuance.
105-61.001 Definitions.
105-61.001-1 Records.
105-61.001-2 Archives.
105-61.001-3 Federal records center records.
105-61.001-4 Donated historical materials.
105-61.001-5 Director.
105-61.001-6 Researcher.
105-61.001-7 Federal records centers.

Subpart 105-61.1—Public Use of Archives and FRC Records

105-61.101 Availability of records.
105-61.101-1 General.
105-61.101-2 Location of records and hours of use.
105-61.101-3 Application procedures.
105-61.101-4 Researcher identification card.
105-61.102 Research room rules.
105-61.102-1 Registration.
105-61.102-2 Researcher's responsibility for records.
105-61.102-3 Prevention of damage to records.
105-61.102-4 Removal orf mutilation of records.
105-61.102-5 Conduct.
105-61.102-6 Keeping records in order.
105-61.102-7 Locker use policy.
105-61.103 Access to unclassified records.
105-61.103-1 Archives.
105-61.103-2 FRC records.
105-61.103-3 Records of defunct agencies.
105-61.104 Access to national security information.
105-61.104-1 Freedom of Information Act requests.
105-61.104-2 Declassification responsibility.
105-61.104-3 Public requests for mandatory review of classified information under Executive Order 12065.
105-61.104-4 Mandatory review of classified U.S. Government originated information.
105-61.104-5 Mandatory review of foreign government information provided to the United States in confidence.
105-61.104-6 Information originated by a defunct agency or received by a defunct agency from a foreign government.

Sec.
105-61.104-7 Mandatory review of classified White House originated information more than 10 and less than 20 years old and foreign government information more than 10 and less than 30 years old received or classified by the White House.
105-61.104-8 Mandatory review of classified White House origninated information more than 20 years old and foreign government information received or classified by the White House more than 30 years old.
105-61.104-9 Access by historical researchers and former Presidential appointees.
105-61.104-10 Fees for copies of documents declassified through mandatory review procedures.
105-61.105 Copying services.
105-61.106 Information services.
105-61.106-1 About records.
105-61.106-2 From records.
105-61.107 Authentication of copies.
105-61.108 Fees.
105-61.108-1 Authority.
105-61.108-2 Fees and procedures.
105-61.109 Subpoenas and other legal demands.

Subpart 105-61.2—Public Use of Donated Historical Materials

105-61.201 General.
105-61.202 Restrictions.

Subpart 105-61.3—Public Use of Facilities of the National Archives and Records Service

105-61.301 Facilities in the National Archives Building.
105-61.302 The National Archives Exhibition Hall.
105-61.302-1 General.
105-61.302-2 Photographing documents in exhibit areas.
105-61.302-3 Artificial lighting.
105-61.303 The National Archives Library.
105-61.304 The National Archives Theater and conference rooms.
105-61.304-1 Purpose of use.
105-61.304-2 Application for use.
105-61.305 Facilities in the Presidential libraries.
105-61.305-1 Museum areas.
105-61.305-2 Auditoriums.
105-61.305-3 Supplemental rules.
105-61.305-4 Book collections.
105-61.305-5 Photographing documents.
105-61.306 Conference rooms in Federal records centers.
105-61.307 General conditions governing use of all facilities.

Subparts 105-61.4—105-61.50—[Reserved]

Subpart 105-61.51—Location of Records and Hours of Use

Sec.
105-61.5100 Scope of subpart.
105-61.5101 Location of records and hours of use.
105-61.5101-1 National Archives Building.
105-61.5101-2 [Reserved]
105-61.5101-3 Presidential libraries.
105-61.5101-4 Washington National Records Center.
105-61.5101-5 National Personnel Records Center.
105-61.5101-6 Federal records centers.
105-61.5101-7 Federal archives and records centers.

Subpart 105-61.52—Fees

105-61.5201 Applicability.
105-61.5202 Exclusions.
105-61.5203 Color reproductions.
105-61.5204 Copy negatives.
105-61.5205 Mail orders.
105-61.5206 Fee schedule.
105-61.5207 Payment of fees.
105-61.5208 Effective date.

Subpart 105-61.53—Restrictions on the Use of Records

105-61.5300 Scope of subpart.
105-61.5301 Restrictions on access.
105-61.5302 General restrictions.
105-61.5302-6 Investigatory records.
105-61.5302-8 Immigration and naturalization certificates and declarations.
105-61.5302-18 Individual privacy.
105-61.5303 Specific restrictions.
105-61.5303-13 Records of the National Mediation Board.
105-61.5303-29 Records of the Bureau of the Census.
105-61.5303-43 Records of International Conferences, Commissions, and Expositions.
105-61.5303-56 General Records of the Department of the Treasury.
105-61.5303-59 General Records of the Department of State.
105-61.5303-60 General Records of the Department of Justice.
105-61.5303-75 Records of the Bureau of Indian Affairs.
105-61.5303-76 Records of Boundary and Claims Commissions and Arbitrations.
105-61.5303-80 General Records of the Department of the Navy, 1798-1947.
105-61.5303-81 Records of the United States Tariff Commission.
105-61.5303-84 Records of the Foreign Service Posts of the Department of State.

Sec.
105-61.5303-104 Records of the Bureau of the Mint.
105-61.5303-146 Records of the United States Civil Service Commission.
105-61.5303-167 Records of the National Bureau of Standards.
105-61.5303-173 Records of the Federal Communications Commission.
105-61.5303-197 Records of the Civil Aeronautics Board.
105-61.5303-200 National Archives Gift Collection.
105-61.5303-210 Records of the War Relocation Authority.
105-61.5303-220 Records of Presidential Committees, Commissions, and Boards.
105-61.5303-227 Records of the Office of Scientific Research and Development.
105-61.5303-257 Records of the Bureau of Labor Statistics.
105-61.5303-266 Records of the Securities and Exchange Commission.
105-61.5303-267 Records of the Supreme Court of the United States.
105-61.5303-275 Records of the Export-Import Bank of the United States.
105-61.5303-280 Records of the Federal Mediation and Conciliation Service.
105-61.5303-353 Records of the Interdepartmental and Intradepartmental Committees (State Department).
105-61.5303-354 Records of the Office of Science and Technology.
105-61.5303-396 Records of the Office of Emergency Preparedness.
105-61.5303-418 Records of St. Elizabeths Hospital.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), unless otherwise noted.

SOURCE: 33 FR 4885, Mar. 22, 1968, unless otherwise noted.

§ 105-61.000 General.

[40 FR 7924, Feb. 24, 1975]

§ 105-61.000-1 Scope.

This part prescribes rules and procedures governing the public use of records and donated historical materials in the custody of the National Archives and Records Service (NARS) but does not apply to current operating records of the Service. This part also prescribes rules and procedures governing the public use of certain facilities of the Service.

[40 FR 7924, Feb. 24, 1975]

§ 105-61.000-2 Authority for issuance.

The rules and procedures included in subparts 105-61.1 through 105-61.3 are issued by the Administrator of General Services. The Archivist of the United States is authorized to issue supplemental rules and procedures concerning restrictions on the use of records in subparts 105-61.53 and 105-61.54; on fees for reproduction and related services in subpart 105-61.52; and on the location of records and hours of use in subpart 105-61.51.

[40 FR 7924, Feb. 24, 1975]

§ 105-61.001 Definitions.

The following definitions are established for terms used in this part.

§ 105-61.001-1 Records.

"Records" means only records that have been transferred to the National Archives and Records Service, in accordance with 44 U.S.C. 2103, 3103; namely, archives and Federal records center records, as those terms are defined in this § 105-61.001. The term "records" does not include current operating records of the National Archives and Records Service, the public availability of which is governed by Part 105-60, or donated historical materials, as defined and considered in this part.

[34 FR 200, Jan. 7, 1969]

§ 105-61.001-2 Archives.

"Archives" means official records that have been determined by GSA to have sufficient historical or other value to warrant their continued preservation by the U.S. Government, and have been accepted for deposit with the National Archives of the United States.

§ 105-61.001-3 Federal records center records.

"Federal records center records" (hereafter referred to as "FRC records") means records which, pending their deposit with the National Archives of the United States or their disposition in any other manner authorized by law, have been transferred to a Federal records center operated by GSA.

§ 105-61.001-4 Donated historical materials.

"Donated historical materials" means books, correspondence, documents, papers, pamphlets, magnetic tapes, pictures, photographs, plats, maps, films, motion pictures, sound recordings, and other documental media having historical or commemorative value accepted by GSA from a source other than an agency of the U.S. Government.

§ 105-61.001-5 Director.

"Director" means the head of a Presidential library, the head of an Office of the National Archives division, branch, or unit responsible for servicing records, or the head of a Reference Service Branch or an Archives Branch in a Federal records center.

[34 FR 200, Jan. 7, 1969]

§ 105-61.001-6 Researcher.

"Researcher" means a person who has applied for access to records or donated historical materials, in accordance with § 105-61.101-3, and who has been issued a researcher identification card.

[42 FR 13022, Mar. 8, 1977]

§ 105-61.001-7 Federal records centers.

"Federal records centers" includes the Washington National Records Center, National Personnel Records Center, and the Federal records centers and Federal archives and records centers listed in §§ 105-61.5101-6 and 105-61.5101-7.

[40 FR 7924, Feb. 24, 1975]

Subpart 105-61.1—Public Use of Archives and FRC Records

§ 105-61.101 Availability of records.

§ 105-61.101-1 General.

(a) Researchers will normally use records in designated research rooms only.

(b) Original records will not normally be made available when microfilm copies are available.

(c) Persons seeking information that is published and readily available will normally be referred to a public library.

(d) A director may require that researchers under the age of 16 years be accompanied by an adult researcher who agrees in writing to be present when the records are used and to be responsible for compliance with the research room rules set forth in § 105-61.102.

(e) Requests received in the normal course of reference service are not considered requests made under the Freedom of Information Act (5 U.S.C. 552). Requests under the act must follow the procedure set forth in § 105-61.103 or § 105-61.104.

(f) Certain documents in the custody of NARS are available for exhibit, but are loaned ony if the exhibitor meets exacting requirements regarding security, insurance coverage and humidity and temperature control of the exhibit area. These requirements may be obtained by writing to General Services Administration (NE), Washington, D.C. 20408.

[33 FR 4885, Mar. 22, 1968, as amended at 40 FR 7924, Feb. 24, 1975; 40 FR 28610, July 8, 1975; 42 FR 13022, Mar. 8, 1977]

§ 105-61.101-2 Location of records and hours of use.

(a) A prospective researcher should first ascertain the location of the records desired. Inquiries may be addressed to the Archivist of the United States, Washington, DC 20408.

(b) The locations and hours of duty (expressed in local time) of depositories administered by the National Archives and Records Service are shown in § 105-61.5101.

(c) Except for Federal holidays and other times specified by the Archivist or other authorized GSA officials, records will be made available according to the schedule set forth in § 105-61.5101.

(d) In addition to the times specified in § 105-61.5101, records may be made available at such other times as are authorized by a director.

[40 FR 7925, Feb. 24, 1975, as amended at 42 FR 13022, Mar. 8, 1977]

§ 105-61.101-3 Application procedures.

(a) In advance of applying for the use of records, a prospective researcher is encouraged to determine from the appropriate depository whether the records are available and whether their volume is sufficient to warrant a personal visit in lieu of reproduction.

(b) Applicants shall apply in person at the depository that has custody of the records sought and shall furnish, on a form provided for the purpose, information necessary for registration and for determining which records will be made available. Applicants shall furnish proper identification, and, if applying for access to large quantities of records or to records that are specially fragile or valuable, shall upon request furnish a letter of reference or introduction.

(c) In addition to the procedures prescribed in this § 105-61.101.3, researchers desiring to apply for the use of archives that contain defense-classified information shall follow procedures prescribed in § 105-61.104.

[34 FR 200, Jan. 7, 1969, as amended at 39 FR 11884, Apr. 1, 1974]

§ 105-61.101-4 Research identification card.

A researcher identification card will be issued to each person whose application is approved. The card will be valid for the use of records at each depository (except the Presidential Libraries which will continue to issue their own cards valid only at the issuing library), and for a period of not more than 2 years, but it may be renewed upon application. Cards are not transferable and shall be produced when requested by a guard or research room attendant.

[45 FR 8603, Feb. 8, 1980]

§ 105-61.102 Research room rules.

[40 FR 7925, Feb. 24, 1975]

§ 105-61.102-1 Registration.

Researchers shall register each day they enter a research room, furnishing the information specified on the registration form.

[40 FR 7925, Feb. 24, 1975]

§ 105-61.102-2 Researcher's responsibility for records.

The research room attendant may limit the quantity of records to be delivered at one time to a researcher. When requested, researchers shall acknowledge receipt of records by signature. A researcher is responsible for all records delivered to him until he returns them. When a researcher has completed his use of records, he shall return them to the research room attendant. When requested, researchers shall return records as much as 10 minutes before closing time. Before leaving a research room, even for a short time, a researcher shall notify the research room attendant and place all records in their proper containers.

[40 FR 7925, Feb. 24, 1975]

§ 105-61.102-3 Prevention of damage to records.

The researcher shall exercise all possible care to prevent damage to records. Records shall not be used at a desk where there is a container of liquid or where a fountain pen is being used. Records shall not be leaned on, written on, folded anew, traced, fastened with paper clips or rubber bands, or handled in any way likely to cause damage. The use of records of exceptional value or in fragile condition shall be subject to any conditions specified by the research room attendant.

[40 FR 7925, Feb. 24, 1975]

§ 105-61.102-4 Removal or mutilation of records.

Researchers may not remove records from a research room. The removal or mutilation of records is forbidden by law and is punishable by fine or imprisonment or both (18 U.S.C. 2071). At the discretion of the research room attendant or Federal Protective Officer on duty, researchers may be required to check personal belongings, including briefcases, folders, coats, newspapers, or containers of any kind before entering a research room; and upon leaving, researchers shall present for examination any article that could contain records. To ensure that records are not unlawfully removed or mutilated, a director may issue and post at the entrance of a research room instructions supplementing the rules in this § 105-61.102.

[40 FR 7925, Feb. 24, 1975]

§ 105-61.102-5 Conduct.

(a) *Regulations.* Researchers are subject to the provisions of Subpart 101-20.3, Conduct on Federal Property, and to all rules and regulations issued and posted or distributed by a facility director supplementing § 105-61.102. Eating in a research room is prohibited. Smoking is prohibited except in designated smoking areas. Loud talking and other activities likely to disturb other researchers are also prohibited. Persons desiring to use typewriters, sound recording devices, or photocopying equipment shall work in areas designated by the research room attendant.

(b) *Revocation of a researcher identification card.* When researchers have refused to comply with the rules and regulations of a NARS facility, or by their actions have demonstrated that they present a danger to the records or a danger or annoyance to other researchers or employees, they may have their researcher identification cards revoked by a NARS facility director. A researcher whose card has been revoked shall immediately be denied research privileges at all NARS facilities and shall be given written notification of the reasons for the revocation within 3 work days of that action. A researcher having his researcher identification card revoked shall have 30 days after the revocation in which to make a written appeal to the Archivist of the United States, National Archives and Records Service (N), General Services Administration, Washington, D.C. 20408, for reinstatement of research privileges. The Archivist of the United States shall, upon receipt of an appeal, have 30 days in which to decide whether or not research privileges should be reinstated. If the revocation is upheld or if no appeal is made, the researcher shall be prohibited from applying for another researcher identification card for a period of 6 months from the date of the revocation, and all NARS facilities shall be so notified. At the end of 6 months, a researcher who has had his NARS identification card revoked may reapply for research privileges. Upon application, a new researcher identification card will be issued for a probationary period of 2 months. However, if based on the reasons for the revocation of research privileges, the probationary reinstatement of a researcher poses a substantial threat to the safety of persons or property, the facility director shall deny probationary reinstatement and so advise the applicant in writing within 3 working days of receiving the reinstatement application. At the end of the probationary period the researcher may apply for a standard researcher identification card valid for 2 years. The NARS facility director will review the researcher's conduct in NARS facilities during the probationary period and determine whether a regular 2-year researcher identification card will be issued. If the researcher's conduct during the probationary period is determined to have been unsatisfactory by the NARS facility director, or if the facility director has denied a reinstatement application, research privileges will again be denied for 6 months. This second and any subsequent revocation of research privileges may be appealed to the Archivist of the United States pursuant to the procedures specified in this section.

[43 FR 1798, Jan. 12, 1978]

§ 105-61.102-6 Keeping records in order.

A researcher must keep unbound records in the order in which they are delivered to him. Records appearing to be in disorder should not be rearranged by a researcher, but should be referred to the research room attendant. Normally, a researcher will not be allowed to remove records from more than one container at a time.

[40 FR 7925, Feb. 24, 1975]

§ 105-61.102-7 Locker use policy.

(a) The National Archives and Records Service (NARS) prohibits researchers from carrying boxes, briefcases, satchels, valises, purses, or other large containers into the research rooms or authorized stack areas. To accommodate researchers who have these items, lockers or other storage facilities are conveniently located near research rooms. These lockers or other storage facilities are available on a first-come-first-served basis.

(b) Researchers' personal belongings must be removed each night from the lockers or other storage facilities provided to hold them unless special permission is obtained in advance from designated research room staff. If personal belongings are not removed from the facilities by the researcher, they will be removed by NARS personnel. Directions for reclaiming confiscated items will be posted near the lockers or other storage facilities.

(c) The National Archives and Records Service is not responsible for the loss or theft of articles stored in the lockers.

[45 FR 8603, Feb. 8, 1980]

§ 105-61.103 Access to unclassified records.

[40 FR 7925, Feb. 24, 1975]

§ 105-61.103-1 Archives.

(a) *Restrictions.* The use of archives is subject to the restrictions prescribed by statute or Executive order or by the restrictions specified in writing in accordance with 44 U.S.C. 2104 by the agency from which the records were transferred. The restrictions are published in the "Guide to the National Archives of the United States," which is hereby incorporated by reference, and supplemented by restriction statements approved by the Archivist of the United States and set forth in § 105-61.202 and Subpart 105-61.53. The Guide is available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. The Guide may also be consulted at the NARS research facilities set forth in § 105-61.5101 and the GSA Business Service Center reading rooms set forth in § 105-60.303. NARS makes available any reasonably segregable portion of a record after the restricted portion has been deleted.

(b) *Freedom of Information Act requests.* Requests for access to unclassified archives under the Freedom of Information Act shall reasonably describe the records requested, shall be made in writing to the director of the appropriate NARS depository listed in § 105-61.5101 or to the Assistant Archivist for the National Archives, and shall clearly indicate that the request is being made under the act. Within 10 workdays after receiving a request for unrestricted records NARS makes them available. When restricted records are requested, NARS consults with the agency from which the records were transferred, when appropriate, to determine which exemption in 5 U.S.C. 552b, if any, justifies continuing the restrictions and makes a determination within 10 workdays unless consultation with the transferring agency requires an extension not to exceed 10 additional workdays. If an extension is required, NARS notifies the requester within 10 workdays from receipt of the request.

(c) *Denials and appeals.* Denials under the Freedom of Information Act of access to archives are made by the appropriate director of a Federal records center or a Presidential library or by the Assistant Archivist for the National Archives, who, within 10 workdays, shall notify the requester of the reasons for denial and of the procedures for appeal. A requester may appeal a denial by writing to the Deputy Archivist of the United States (mailing address: General Services Administration (ND), Washington, DC 20408). The Deputy Archivist shall consult with the agency specifying the restriction, when appropriate, and make a determination within 20 workdays after the date of receipt of the appeal. If an extension is required, the Deputy Archivist shall notify the requester within 20 workdays from receipt of the request. Time extensions shall not exceed 10 workdays in the aggregate: Either solely in the initial stage or solely in the appellate stage, or divided between them. If the determination is adverse in whole or in part, the Deputy Archivist shall notify the requester of the right to judicial review. Denials and appeals of denials of information under the Freedom of Information Act exemption 552(b)(1), National security information, are processed in accordance with the provisions of § 105-61.104-1.

Best Available Copy

[40 FR 7925, Feb. 24, 1975, as amended at 44 FR 18495, Mar. 28, 1979]

§ 105-61.103-2 FRC records.

Requests for access to records on deposit in Federal records centers shall be addressed directly to the appropriate agency or to the FRC director at the address shown in § 105-61.5101. The use of FRC records is subject to access rules prescribed by the agency from which the records were transferred. When the agency's rules permit, NARS makes FRC records available to requesters. When access is precluded by these rules and restrictions, the FRC director will refer to the responsible agency the requests and any appeals for access, including those made under the Freedom of Information Act.

[40 FR 7925, Feb. 24, 1975]

§ 105-61.103-3 Records of defunct agencies.

Access to archives and FRC records received from agencies which have ceased to exist without a successor in function are handled in accordance with §§ 105-61.103-1 and 105-61.104-6.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105-61.000.2)

[44 FR 18496, Mar. 28, 1979]

§ 105-61.104 Access to national security information.

Public access to national security information and material, hereinafter referred to as "classified information" or collectively termed "information," is governed by Executive Order 12065 of June 28, 1978 (43 FR 28949, July 3, 1978), the implementing Information Security Oversight Office Directive Number 1 of October 2, 1978 (43 FR 46280, October 5, 1978), and the Freedom of Information Act (5 U.S.C. 552).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105-61.000.2)

[44 FR 18496, Mar. 28, 1979]

§ 105-61.104-1 Freedom of Information Act requests.

(a) *Requests for access to national security information under the Freedom of Information Act.* Requests for access to national security information under the Freedom of Information Act are processed in accordance with the provisions of § 105-61.103-1(b). Time limits for responses to Freedom of Information Act requests for national security information are those provided in the act rather than the longer time limits provided for responses to mandatory review requests specified by Executive Order 12065.

(b) *Denials and appeals.* Denials under the Freedom of Information Act of access to archives are made by designated officials of the originating or responsible agency. Appeals of denials must be made in writing to the appropriate authority in the agency having declassification responsibility for the denied information as indicated in § 105-61.104-2.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105-61.000.2)

[44 FR 18496, Mar. 28, 1979]

§ 105-61.104-2 Declassification responsibility.

(a) *Classified U.S. Government originated information less than 20 years old and foreign government information less than 30 years old.* Declassification of U.S. Government originated information less than 20 years old and foreign government information (which was provided in confidence) less than 30 years old is the responsibility of (1) the agency that classified the information or originally received the information from a foreign originator or (2) the agency with primary subject matter interest. NARS may make a declassification determination on these records only when the responsible agency has specifically authorized this action.

(b) *Classified U.S. Government originated information more than 20 years old and foreign government information more than 30 years old.* Systematic reviews of U.S. Government originated information more than 20 years old and foreign government information (which was provided in confidence) more than 30 years old which have been accessioned by NARS are the responsibility of NARS. NARS shall declassify this information unless the head of the responsible agency determines personally and in writing that the information must

Best Available Copy

remain classified and notifies the Archivist of the United States of this determination.

(c) *White House information.* Declassification of information more than 10 years old which was originated by the President, by the White House staff, by committees or commissions appointed by the President, or by others acting on the President's behalf (hereinafter referred to as "White House information") is the responsibility of NARS. NARS makes these determinations after consulting with the agencies that have primary subject matter interest in the information.

(d) *Defunct agency information.* Declassification of information originated by or received from a foreign originator by an agency which has ceased to exist and whose functions were not transferred to another agency is the responsibility of NARS. NARS makes these determinations after consulting with the agencies having primary subject matter interest.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105-61.000.2)

[44 FR 18496, Mar. 28, 1979]

§ 105-61.104-3 Public requests for mandatory review of classified information under Executive Order 12065.

(a) Members of the public wishing to request mandatory review of classified information which has been accessioned into the National Archives of the United States or which has been donated to the Government and is in the custody of a Presidential library administered by the National Archives and Records Service (NARS) should identify the record or information desired and apply in writing to the appropriate NARS depository listed in § 105-61.5101.

(b) Information originated or received by an agency of the United States Government is subject to mandatory review from the date of its creation. Information originated by the President, by the White House staff, by committees or commissions appointed by the President, or by others acting on behalf of the President, is subject to mandatory review after it becomes 10 years old. All requests must reasonably describe the information sought. When practicable, a request shall include the name of the originator and recipient of the information, as well as its date, subject, and file designation. If the information sought cannot be identified from the description provided or if the information sought is so voluminous that processing it would interfere with NARS' capacity to serve all requesters on an equitable basis, NARS shall notify the requester that, unless additional information is provided or the scope of the request is narrowed, no further action will be taken. NARS shall declassify and release the requested information or any reasonably segregable portion thereof that no longer requires protection under Executive Order 12065 unless withholding is otherwise warranted under applicable law.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105-61.000.2)

[44 FR 18496, Mar. 28, 1979]

§ 105-61.104-4 Mandatory review of classified U.S. Government originated information.

(a) *NARS action*—(1) *Information less than 20 years old.* NARS shall promptly acknowledge receipt of a request for mandatory review of classfied U.S. Government originated information and within 20 calendar days of receipt of the request shall forward it, with copies of the documents containing the requested information, to the agency which originated the information or the agency which the Archivist determines has primary subject matter interest. NARS shall inform the requester of all such referrals.

(2) *Information more than 20 years old.* NARS shall acknowledge receipt of a request for mandatory review of classified U.S. Government originated information which NARS may declassify using systematic review guidelines and within 60 days of receipt of the request shall act upon it and notify the requester of the action taken. Information which NARS may not declassify using the systematic review guidelines shall be promptly forwarded, with copies of documents containing the requested information, to the responsible agency. NARS shall inform the requester of all such referrals.

(b) *Agency action.* Upon receipt of a request for mandatory review of classified U.S. Government originated information forwarded by NARS, the originating or responsible agency shall:

(1) Review the information; coordinate the review of the information with all other agencies having primary subject matter interest; and determine whether the information may be wholly or partially declassified or must continue to be exempt from declassification.

(2) Notify the requester and NARS of the determination. If the request is denied in whole or in part, the agency must also furnish:

(i) To the requester and NARS, a brief statement of the reasons the requested information cannot be declassified;

(ii) To NARS, a copy of each document released only in part, marked to indicate the portions which remain classified; and

(iii) To the requester, a statement of the right to appeal within 60 calendar days; the procedures for taking such action; and the name, title, and address of the appeal authority.

(3) If applicable, notify NARS of the agency to which it forwarded requests determined to be the primary responsibility of another agency.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105-61.000.2)

[44 FR 18497, Mar. 28, 1979]

§ 105-61.104-5 Mandatory review of foreign government information provided to the United States in confidence.

(a) *NARS action.*—(1) *Information less than 30 years old.* NARS shall promptly acknowledge receipt of a request for mandatory review of foreign government information provided to the United States in confidence. Within 20 calendar days of receipt of the request, NARS shall forward the request, with copies of the documents containing the requested information, to the agency which initially received or classified the information. If unable to indentify that agency, NARS shall forward the request to the agency which has primary subject matter interest. NARS shall inform the requester of all such referrals.

(2) *Information more than 30 years old.* NARS shall acknowledge receipt of a request for mandatory review of foreign government information which NARS may declassify using systematic review guidelines and within 60 calendar days of receipt of the request shall act upon it and notify the requester of the action taken. Requests for information which NARS may not declassify using the systematic review guidelines shall be promptly forwarded, with copies of the documents containing the requested information, to the responsible agency. NARS shall notify the requester of all such referrals.

(b) *Agency action.* Upon receipt of a request forwarded by NARS for review of foreign government information, the agency shall:

(1) Review the information and coordinate its further review with all other agencies having primary subject matter interest. If agency policy or guidelines do not cover a particular situation, the agency may consult through appropriate channels with the foreign orginator;

(2) Notify the requester and NARS of the determination. If the request is denied in whole or in part, the agency must also furnish the information cited in § 105-61.104-4(b)(2); and

(3) If applicable, notify NARS of the agency to which it forwarded requests determined to be the primary responsibility of another agency.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105-61.000.2)

[44 FR 18497, Mar. 28, 1979]

§ 105-61.104-6 Information originated by a defunct agency or received by a defunct agency from a foreign government.

(a) *NARS action.* NARS is responsible for declassification of all information in the custody of NARS originated by an agency which has ceased to exist and whose functions have not been transferred to another agency and of all foreign government information originally received or classified by such an agency. NARS shall promptly acknowledge receipt of requests for such information, review the information using systematic review guidelines, and, when necessary, consult with all agencies having primary subject matter interest. NARS shall act upon the request within 60 calendar days of its receipt and inform the requester of the action taken. If the request is denied in whole or in part, the Assistant Archivist for the National Archives shall furnish the requester a brief statement of the reasons for denial and a notice of the right to appeal the determination within 60 days to the Deputy Archivist of the United States (mailing address: General Services Administration (ND), Washington, DC 20408). Upon receipt of an appeal, the Deputy Archivist shall, within 30 calendar days:

(1) Review the decision to deny information over which NARS has classification jurisdiction;

(2) As necessary, consult with the appellate authorities in agencies having primary subject matter interest in the information denied; and

(3) Notify the requester of the final determination and make available to the requester information that has been declassified as a result of the appeal. To ensure that NARS will be able to respond promptly to appeals of mandatory review decisions, the head of each agency will be requested to provide NARS with the current name, title, and address of that agency's designated appellate authority.

(b) *Agency action.* Upon receipt of a request forwarded by NARS for consultation regarding the declassification of foreign government information originally received or classified by a defunct agency, the agency with primary subject matter interest shall:

(1) Advise the Archivist of the United States whether the information should be declassified in whole or in part or should continue to be exempt from declassification; and

(2) Return the request to NARS with a brief statement of the reasons any requested information should not be declassified and a copy of each document released only in part, marked to indicate those portions which remain classified.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105-61.000.2)

[44 FR 18497, Mar. 28, 1979]

§ 105-61.104-7 Mandatory review of classified White House originated information more than 10 and less than 20 years old and foreign government information more than 10 and less than 30 years old received or classified by the White House.

(a) *NARS action.* (1) NARS shall promptly acknowledge receipt of a request for mandatory review of classified White House originated information more than 10 years old and less than 20 years old and foreign government information more than 10 and less than 30 years old received or classified by the White House and shall act upon that request within 60 calendar days.

(2) NARS shall review the requested information, determine which agencies have primary subject matter interest, forward to those agencies copies of material containing the requested information, and request their recommendations regarding declassification.

(3) NARS shall review the recommendations returned by the agencies and make its declassification determination.

(4) If the request is denied in whole or in part, NARS shall furnish the requester:

(i) A brief statement of the reasons the requested information cannot be declassified;

(ii) Access to the portions of documents that are releasable only in part; and

(iii) A notice of the right to appeal the determination within 60 days to the Deputy Archivist of the United States (mailing address: General Services Administration (ND), Washington, D.C. 20408).

(5) Upon receipt of an appeal, the Deputy Archivist shall, within 30 calendar days:

(i) Review the decision to deny information;

(ii) Consult with the appellate authorities in agencies having primary subject matter interest in the information denied;

(iii) Notify the requester of the determination and make available to the requester information which has been declassified as a result of the appeal; and

(iv) Notify the requester of the right to further appeal denials of access to the Director, Information Security Oversight Office (mailing address: General Services Administration (AT), Washington, D.C. 20405).

(b) *Agency action.* Upon receipt of a request forwarded by NARS for consultation regarding declassification of White House originated information more than 10 years old and less than 20 years old and foreign government information more than 10 years old and less than 30 years old received or classified in the White House, the agency with primary subject matter interest shall:

(1) Advise the Archivist of the United States whether the information should be declassified in whole or in part or should continue to be exempt from declassification; and

(2) Return the request to NARS with a brief statement of the reasons any requested information should not be declassified and a copy of each document which should be released only in part, marked to indicate the protions which remain classified.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105-61.000.2)

[44 FR 18497, Mar. 28, 1979]

§ 105-61.104-8 Mandatory review of classified White House originated information more than 20 years old and foreign government information received or classified by the White House more than 30 years old.

(a) *NARS action.* (1) NARS shall promptly acknowledge the receipt of a request for mandatory review of classified White House originated information more than 20 years old and foreign government information received or classified by the White House more than 30 years old and shall act upon that request within 60 days.

(2) NARS shall review the information using applicable systematic review guidelines and shall make available to the requester information declassified using those guidelines.

(3) Information which cannot be declassified by NARS using systematic review guidelines shall be forwarded to the agencies with primary subject matter interest and further processed in accordance with § 105-61.104-7(a) (2) through (5) and (b).

(b) *Agency action.* Upon receipt of a request forwarded by NARS for consultation regarding declassification of White House originated information more than 20 years old and foreign government information more than 30 years old received or classified in the White House, the agency with primary subject matter interest shall:

(1) Advise the Archivist of the United States whether the information should be declassified in whole or in part or should continue to be exempt from declassification; and

(2) Return the request to NARS with a brief statement of the reasons any requested information should not be declassified and a copy of each document which should be released only in part, marked to indicate the portions which should remain classified.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105-61.000.2)

[44 FR 18498, Mar. 28, 1979]

§ 105-61.104-9 Access by historical researchers and former Presidential appointees.

(a) Access to classified information may be granted to persons who are engaged in historical research projects or who previously occupied policymaking positions to which they were appointed by the President. Persons desiring permission to examine material under this special historical researcher/ Presidential appointees access program should contact NARS at least 4 months before they desire access to the materials to permit time for the responsible agencies to process the requests for access. NARS shall inform requesters of the agencies to which they will have to apply for permission to examine classified information and shall provide requesters with the information and forms to apply for permission from the Archivist of the United States to examine classified information originated by the White House or classified information in the custody of the National Archives which was originated by a defunct agency. Researchers may examine these records only after the responsible agencies have authorized access.

(b) To guard against the possibility of unauthorized access to restricted records, a director may issue instructions supplementing the research room rules provided in § 105-61.102.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105-61.000.2)

[44 FR 18498, Mar. 28, 1979]

§ 105-61.104-10 Fees for copies of documents declassified through mandatory review procedures.

NARS will charge requesters for copies of declassifed documents according to the fees listed in § 105-61.5206. These fees apply to:

(a) Copies furnished to researchers directly by NARS; and

(b) Copies which an agency received from NARS and furnished to a requester.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105-61.000.2)

[44 FR 18498, Mar. 28, 1979]

§ 105-61.105 Copying services.

The copying of records will be done by personnel of the National Archives and Records Service with equipment belonging to the Service. NARS reserves the right to make a duplicate, at NARS expense, of any material copied. Such duplicates may be used by the Service to make additional copies for other researchers. Directors may permit individual researchers to use their own copying equipment when such use will not harm the records, will not disturb other researchers, and will not require the use of facilities or space other than that provided to all researchers. In order to preserve the original records, records which are available on microfilm will not be copied by other means as long as a legible copy (electrostat, photograph, or microfilm) can be made from the microfilm.

[40 FR 7926, Feb. 24, 1975]

§ 105-61.106 Information services.

§ 105-61.106-1 About records.

Upon request, overall information *pertaining to holdings or about specific* records will be furnished, provided that the time required to furnish the information is not excessive, and provided that the information is not restricted (see §§ 105-61.103 and 105-61.104). When so specified by a director, requests shall be made on prescribed forms.

[40 FR 7926, Feb. 24, 1975]

§ 105-61.106-2 From records.

Normally, information contained in the records will be furnished in the form of photocopies of the records, subject to the provisions of § 105-61.105. The National Archives and Records Service will certify facts and make administrative determinations on the basis of archives, or of FRC records when appropriate officials of other agencies have authorized GSA to do so. Such certifications and determinations shall be authenticated by the seal of GSA, the National Archives of the United States, or the transferring agency, as appropriate.

[34 FR 19979, Dec. 20, 1969]

§ 105-61.107 Authentication of copies.

The responsible director, or any of his superiors, and the Director of the Federal Register are authorized to authenticate and attest copies of records.

§ 105-61.108 Fees.

[40 FR 7926, Feb. 24, 1975]

§ 105-61.108-1 Authority.

44 U.S.C. 2112c authorizes the charging of a fee, not in excess of 10 percent more than the costs or expenses, for making or authenticating copies or reproductions of materials transferred to the Administrator's custody. Under 44 U.S.C. 2307 the Chairman, National Archives Trust Fund Board, is authorized to prepare and publish special works and collections of sources and to prepare, duplicate, edit, and release historical photographic materials and sound recordings and sell those publications and releases at a price that will cover their cost, plus 10 percent.

[40 FR 7926, Feb. 24, 1975]

§ 105-61.108-2 Fees and procedures.

The schedule of fees charged under this section for reproductions, exemptions from the fees charged, and procedures for the collection of such fees are issued by the Archivist of the United States and are set forth in subpart 105-61.52.

[40 FR 7926, Feb. 24, 1975]

§ 105-61.109 Subpoenas and other legal demands.

The handling of subpoenas duces tecum or other legal demands for records will be in accord with Subpart 105-60.6.

Subpart 105-61.2—Public Use of Donated Historical Materials

Source: 40 FR 7926, Feb. 24, 1975, unless otherwise noted.

§ 105-61.201 General.

The use of donated historical materials, as defined in § 105-61.001-4, is governed by the provisions of Subpart 105-61.1.

[44 FR 18498, Mar. 28, 1979]

§ 105-61.202 Restrictions.

The public use of donated historical materials is subject to restrictions on their use and availability as stated in writing by the donors or depositors of such materials and other restrictions imposed by statute. (Researchers are encouraged to confer with directors on any question of literary property right.) In addition, use is subject to all conditions specified by the Archivist of the United States for purposes of archival preservation.

Subpart 105-61.3—Public Use of Facilities of the National Archives and Records Service

§ 105-61.301 Facilities in the National Archives Building.

Facilities in the National Archives Building include the Exhibition Hall, library, theater, and conference rooms as further described in this subpart. Additional conditions for use of these facilities are set out in § 105-61.307.

[39 FR 11885, Apr. 1, 1974]

§ 105-61.302 The National Archives Exhibition Hall.

[39 FR 11885, Apr. 1, 1974]

§ 105-61.302-1 General.

Unless otherwise directed by the Archivist of the United States, visitors are admitted to the Exhibition Hall from 10 a.m. to 9 p.m. except during winter months (the day after Labor Day through March 31) when the Exhibition Hall is closed at 5:30 p.m. The building is closed on Christmas Day. Visitors are admitted only through the Constitution Avenue entrance. However, the guards are authorized to admit handicapped visitors to the Exhibition Hall through the Pennsylvania Avenue entrance and the Main Floor gates.

[45 FR 29577, May 5, 1980]

§ 105-61.302-2 Photographing documents in exhibit areas.

Photographing documents or exhibits in the Exhibition Hall, the Pennsylvania Avenue lobby, or any other exhibit area in the National Archives Building is permitted without artificial light sources at any time. However, photographs may not be taken on the steps or landing leading to the Declaration of Independence, the Constitution, and the Bill of Rights.

[39 FR 11885, Apr. 1, 1974]

§ 105-61.302-3 Artificial lighting.

Artificial light devices may be used with prior approval of the Director, Education Division (NEE), when filming documents in public areas of the National Archives Building subject to the following restrictions:

(a) Facsimiles shall be used to replace the Declaration of Independence, the Constitution, or the Bill of Rights if artificial lighting is to be used. When high intensity lighting is used, all documents that fall within the boundaries of such illumination must be covered or replaced by facsimiles.

(b) Ladders, scaffolding, and tripods may be used after normal hours, but must be kept at a distance greater than the height of the equipment.

(c) Auxiliary power units may be used. Existing lights will not be replaced by higher wattage or intensity lights. A GSA electrician must be present at all times whenever there is a change to the normal power supply. Organizations who film after regular hours will be billed for the electrician's time.

[39 FR 11885, Apr. 1, 1974]

§ 105-61.303 The National Archives Library.

The National Archives Library is operated to meet the needs of researchers and GSA staff members. Other persons desiring to use library materials will generally be referred to public libraries and other possible sources of such materials.

§ 105-61.304 The National Archives Theater and conference rooms.

[39 FR 11885 Apr. 1, 1974]

§ 105-61.304-1 Purpose of use.

The theater in the National Archives Building was designed and will be used primarily for furnishing reference services on the motion picture holdings of the National Archives. Conference rooms in the National Archives Building will be used for conferences and official meetings. When not required for such uses, conference rooms may be assigned to other organizations. Application for use of a room will be approved only if the purpose for which it is requested is educational or is related to the programs of the National Archives and Records Service. The theater and conference rooms shall not be used to promote commercial enterprises or commodities, for political, sectarian, or similar purposes, or for meetings sponsored by profitmaking organizations. Use of the theater and conference rooms will not be authorized for any organization or group of individuals that engages in discriminatory practices proscribed in the Civil Rights Act of 1964 (42 U.S.C. 2000a, note).

[39 FR 11885, Apr. 1, 1974]

§ 105-61.304-2 Application for use.

(a) Applications for use of the theater and conference rooms shall be submitted in writing by the head of the requesting organization, or his duly authorized representative, at least 1 week in advance of the requested use. Applications for use shall be addressed to General Services Administration (NA), Washington, DC 20408, and shall include the following information:

(1) The name of the requesting organization;

(2) The date and the hours of contemplated use;

(3) A brief description of the programs;

(4) The number of persons expected to attend the meeting or performance (The capacity of the theater is 216 persons; conference rooms accommodate between 35 and 70 persons.);

(5) A statement regarding the intention to exhibit motion pictures or slides and, if so, the size (35mm or 16mm) of the film or slides, and whether the film to be shown is on nitrate or safety base; and

(6) Samples of any literature, folders, or posters to be distributed or exhibited at the meeting or performance.

(b) No program will be permitted to continue beyond 10 p.m.

(c) Applications for use on Saturdays, Sundays, holidays, or at times when the building is closed will be considered if fully justified.

(d) No admission fee will be charged, no indirect assessment will be made for admission, and no collection will be taken except as specifically authorized by the Archivist of the United States for special nonprofit-making events which are held by organizations sponsored by the National Archives and Records Service. Commercial advertising or the sale of articles is not permitted.

(e) The serving or consumption of food or beverages within the theater is prohibited. Food or beverages may be served in the conference rooms if approved in advance.

(f) Smoking within the theater is prohibited. Smoking is permitted in the conference rooms.

(g) If the projection of motion pictures or slides is a part of the program, operators will be furnished by the National Archives and Records Service on a reimbursable basis.

(h) Posting of any material about the premises is subject to prior approval.

(i) All persons attending meetings or performances will be required to go directly to the theater, which is on the fifth floor, or to the assigned conference room. No one will be admitted to the parts of the building that are closed to the public.

[33 FR 4885, Mar. 22, 1968, as amended at 39 FR 11885, Apr. 1, 1974; 41 FR 7750, Feb. 20, 1976]

§ 105-61.305 Facilities in Presidential libraries.

§ 105-61.305-1 Museum areas.

(a) Unless otherwise directed by the library director, the hours of admission to museums of the libraries are as follows:

(1) Monday through Saturday, 9 a.m. to 5 p.m., including Federal legal holidays.

(2) Sunday, 2 p.m. to 5 p.m. (10 a.m. to 5 p.m. from May 16 to September 15), including Federal legal holidays.

(3) Museums will be closed on Thanksgiving, Christmas, and New Year's days.

(b) Visitors to the museums of the libraries may be required to check all parcels and luggage at designated places.

(c) Eating and smoking are prohibited in the museums of the libraries and in other library areas except where designated by the library director.

§ 105-61.305-2 Auditoriums.

(a) Library auditoriums are designed to serve the purposes of the libraries, through lectures, seminars, meetings of professional societies, showings of historical motion pictures, and similar activities. A library director may approve applications for use by professional, scientific, educational, or civic organizations, provided that the purpose of the use is related to the activities of the library. Application for such use shall be made in writing to the library director.

(b) Use of the auditoriums will not be authorized for any profitmaking, political, sectarian, or similar purpose, or for any organization or group that engages in discriminatory practices proscribed in the Civil Rights Act of 1964 (42 U.S.C. 2000a, note).

(c) No admission fee will be charged except by the library, no indirect assessment fees will be made for admission, and no collections will be taken. Commercial advertising and sales of any kind are prohibited.

§ 105-61.305-3 Supplemental rules.

Library directors may establish appropriate supplemental rules governing use of Presidential libraries and adjacent buildings. Additional conditions for the use of Presidential libraries are set out in § 105-61.306.

§ 105-61.305-4 Book collections.

The book collections of Presidential libraries are available to researchers needing the unique resources of such libraries and to GSA staff members. Other persons desiring to use the book collections will generally be referred to public libraries and other possible sources of such materials.

[35 FR 18737, Dec. 10, 1970]

§ 105-61.305-5 Photographing documents.

(a) Visitors are permitted to take photographs in Presidential libraries and adjacent buildings open to the public, subject to restrictions set forth in paragraph (c) of this section.

(b) Photographs for news, advertising, or commercial purpose may be taken only after the Presidential library director approves the request.

(c) Artificial light devices shall not be used anywhere in a Presidential library where such use may cause damage to documents. Persons desiring to use photolighting devices shall request special permission from the director of the Presidential library concerned and shall follow procedures prescribed in § 105-61.302-3(c).

[39 FR 11885, Apr. 1, 1974]

§ 105-61.306 Conference rooms in Federal records centers.

(a) Conference rooms in Federal records centers will be used for official meetings and for conferences sponsored by the Federal records centers. When not required for such use, assignments for other purposes may be made. Application for such use will be approved only if the purpose for which it is requested is educational or is related to the programs of the National Archives and Records Service. Applications for such use shall be made to the Federal records center director.

(b) Use of the conference rooms will not be authorized for any profitmaking, political, sectarian, or similar purpose or for any organization or group that engages in discriminatory practices proscribed in the Civil Rights Act of 1964 (42 U.S.C. 2000a, note).

[39 FR 11885, Apr. 1, 1974]

§ 105-61.307 General conditions governing use of all facilities.

All persons using the facilities in the National Archives Building, Presidential libraries, and Federal records centers are subject to the regulations applicable to conduct on Federal property, as specified in Subpart 101-20.3.

[42 FR 13023, Mar. 8, 1977]

Subparts 105-61.4—105.61.50—[Reserved]

Subpart 105-61.51—Location of Records and Hours of Use

SOURCE: 40 FR 7927, Feb. 24, 1975, unless otherwise noted.

§ 105-61.5100 Scope of subpart.

This subpart illustrates exhibits previously referred to in this part.

§ 105-61.5101 Location of records and hours of use.

§ 105-61.5101-1 National Archives Building.

The National Archives Building, Eighth and Pennsylvania Avenue, NW., Washington, DC 20408. Hours: For the Central Research Room and Microfilm Research Room, 8:45 a.m. to 10 p.m., Monday through Friday, and 8:45 a.m. to 5:15 p.m. on Saturday. For other research rooms, 8:45 a.m. to 5 p.m., Monday through Friday. Records to be used on Friday after 5 p.m. or on Saturday must be requested by 3 p.m. Friday. Records to be used after 5 p.m., Monday through Thursday, must be requested by 4 p.m. of the day on which they are used.

§ 105-61.5101-2 [Reserved]

§ 105-61-5101-3 Presidential libraries.

(a) Herbert Hoover Library, Parkside Drive, West Branch, IA 52358. Hours: 9 a.m. to 5 p.m., Monday through Friday.

(b) Franklin D. Roosevelt Library, Albany Post Road, Hyde Park, NY 12538. Hours: 9 a.m. to 5 p.m., Monday through Friday.

(c) Harry S. Truman Library, Highway 24 at Delaware Street, Independence, MO 64050. Hours: 9 a.m. to 5 p.m., Monday through Friday.

(d) Dwight D. Eisenhower Library, South East Fourth Street, Abilene, KS 67410. Hours: 9 a.m. to 5 p.m., Monday through Friday.

(e) John F. Kennedy Library, Morrisey Boulevard, Columbia Point, Boston, MA 02125. Hours: 8:30 a.m. to 5 p.m., Monday through Friday.

(f) Lyndon B. Johnson Library, 2313 Red River, Austin, TX 78705. Hours: 9 a.m. to 5 p.m., Monday through Friday.

(g) Gerald R. Ford Library, 1000 Beal Avenue, Ann Arbor, MI 48109. Hours: 9 a.m. to 5 p.m., Monday through Friday.

[40 FR 7927, Feb. 24, 1975, as amended at 45 FR 28340, Apr. 29, 1980; 46 FR 37652, July 22, 1981]

§ 105-61.5101-4 Washington National Records Center.

Washington National Records Center, 4205 Suitland Road, Suitland, MD. Mailing address: General Services Administration, Washington National Records Center, Washington, DC 20409. Hours: 8 a.m. to 4:30 p.m., Monday through Friday.

§ 105-61.5101-5 National Personnel Records Center.

(a) National Personnel Records Center (military personnel records), 9700 Page Boulevard, St. Louis, MO 63132. Hours: 7:30 a.m. to 4 p.m., Monday through Friday.

(b) National Personnel Records Center (civilian personnel records), 111 Winnebago Street, St. Louis, MO 63118. Hours: 7:30 a.m. to 4 p.m., Monday through Friday.

§ 105-61.5101-6 Federal records centers.

(a) Naval Supply Depot, Building 308, Mechanicsburg, PA 17055. Hours: 7:30 a.m. to 4 p.m., Monday through Friday.

(b) 3150 Bertwynn Drive, Dayton, OH 45439. Hours: 7:30 a.m. to 4 p.m., Monday through Friday.

[40 FR 7927, Feb. 24, 1975, as amended at 42 FR 13023, Mar. 8, 1977]

§ 105-61.5101-7 Federal archives and records centers.

(a) 380 Trapelo Road, Waltham, MA 02154. Hours: 8 a.m. to 4:30 p.m., Monday through Friday.

(b) Military Ocean Terminal, Bldg. 22, Bayonne, NJ 07002. Hours: 8 a.m. to 4:30 p.m., Monday through Friday.

(c) 5000 Wissahickon Avenue, Philadelphia, PA 19144. Hours: 7:30 a.m. to 4 p.m., Monday through Friday.

(d) 1557 St. Joseph Avenue, East Point, GA 30344. Hours: 8 a.m. to 5 p.m., Monday through Friday.

(e) 7358 South Pulaski Road, Chicago, IL 60629. Hours: 8 a.m. to 4:30 p.m., Monday through Friday.

(f) 2306 East Bannister Road, Kansas City, MO 64131. Hours: 8 a.m. to 4 p.m., Monday through Friday.

(g) 4900 Hemphill Street, Fort Worth, TX. Mailing address:Federal Archives and Records Center , P.O. Box 6216, Fort Worth , TX 76115. Hours: 8 a.m. to 4 p.m., Monday through Friday.

(h) Building 48, Denver Federal Center, Denver, CO. Mailing Address: Federal Archives and Records Center. P.O. Box 25307, Denver, CO 80225. Hours: 8 a.m. to 3:50 p.m., Monday through Friday.

(i) 1000 Commodore Drive, San Bruno, CA 94066. Hours: 8 a.m. to 4:30 p.m., Monday through Friday.

(j) 24000 Avila Road, Laguna Niguel, CA 92677. Hours: 8 a.m. to 4:30 p.m., Monday through Friday.

(k) 6125 Sand Point Way, Seattle, WA 98115. Hours: 7:45 a.m. to 4:15 p.m., Monday through Friday.

[40 FR 7927, Feb. 24, 1975, as amended at 42 FR 13023, Mar. 8, 1977; 45 FR 28340, Apr. 29, 1980]

Subpart 105-61.52—Fees

SOURCE: 40 FR 7928, Feb. 24, 1975, unless otherwise noted.

§ 105-61.5201 Applicability.

(a) Except as otherwise provided in this section, fees for the reproduction of archives, donated historical materials, and records filed with the Office of the Federal Register are as set forth in § 105-61.5206.

(b) The fees set forth in § 105-61.5206 apply to reproduction of FRC records, except when NARS and the agency that transferred the records have agreed to apply that agency's fee schedule.

(c) The following categories are excluded from the fees set forth in § 105-61.5206.

(1) National Archives publications, including microfilm publications. Prices of publications are available from the Publications Sales Branch (NEPS), National Archives (GSA), Washington, DC 20408.

(2) Audiovisual materials sold by the National Audiovisual Center. Prices for these materials are available from the Distribution Branch (NEAD), National Audiovisual Center (GSA), Washington, D.C. 20409.

(3)-(4) [Reserved]

(5) Military service files and pension files more than 75 years old. Reproduction of a military service file (or selected documents from the file if voluminous)—$5.

(6) Passenger lists more than 75 years old—$5.

(7) Orders requiring additional expense to meet unusual customer specifications such as the use of special techniques to make a photographic copy more legible than the original document, or unusual format or background requirement for negative microfilm. Fees for these orders are computed for each order.

(8) Customers may request expedited service for most reproduction orders. "Rush" orders are subject to a 40-percent surcharge.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); 41 CFR 105-61.000.2)

[40 FR 7928, Feb. 24, 1975, as amended at 40 FR 42881, Sept. 17, 1975; 41 FR 45001, Oct.

14, 1976; 43 FR 58569, Dec. 15, 1978; 45 FR 28340, Apr. 29, 1980; 46 FR 37652, July 22, 1981]

§ 105-61.5202 Exclusions.

No fee is charged for reproduction or authentication in the following instances:

(a) Documents furnished to other elements of the Federal Government. However, a fee may be charged if the appropriate director determines that the service cannot be performed without reimbursement.

(b) When the purpose is to disseminate information about the activities of GSA to the general public through press, radio, television, and newsreel representatives;

(c) When the reproduction is to furnish the donor of a document or other gift with a copy of the original;

(d) When the reproduction is for individuals or associations having official voluntary or cooperative relations with GSA in its work;

(e) When the reproduction is for a foreign, State, or local government or an international agency and furnishing it without charge is an appropriate courtesy;

(f) When furnishing the service free conforms to generally established business custom, such as furnishing personal reference data to prospective employers of former Government employees;

(g) When the reproduction of not more than one copy of the document is required to obtain from the Government financial benefits to which the requesting person may be entitled (e.g., veterans or their dependents, employees with workmen's compensation claims, or persons insured by the Government);

(h) When the reproduction of not more than one copy of the transcript of a hearing or other formal proceeding involving security requirements for Federal employment is requested by a person directly concerned in the hearing or proceeding; and

(i) When the reproduction of not more than one copy of a document is for a person who has been required to furnish a personal document (e.g., birth certificate and retention by an agency of the Government).

§ 105-61.5203 Color reproductions.

Color reproductions are furnished to the public and the Government only on a fee basis.

§ 105-61.5204 Copy negatives.

Requests for photographs of materials for which no copy negative is on file are handled as follows:

(a) The cost of the negative shall be charged to the customer; except in cases where NARS wishes to retain the negative for its own use.

(b) When no fee is charged the negative becomes the property of NARS. When a fee is charged the negative becomes the property of the customer.

§ 105-61.5205 Mail orders.

The following fees apply only when reproductions are ordered by mail:

(a) Except for those processes showing a higher minimum in § 105-61.5206, a minimum fee of $5 per order is charged for reproductions ordered by mail.

(b) No additional fee is charged for postage and handling reproductions that are sent to domestic addresses at the lowest rate.

(c) When a customer requests that reproductions be sent to a foreign address or requests special postal service to domestic addresses, the order is subject to a shipping fee in addition to the cost of the reproductions. The shipping fee is computed as a percentage of the cost of the items ordered using the schedule in paragraph (d) of this section and/or a postal service fee using the schedule in paragraph (e) of this section. However, no additional charge is made when the special shipping fee is less than $1.

(d) The following special shipping fees are computed as a percentage of the fee for the item ordered:

Type of reproduction	Shipping fee (percent)		
	Foreign surface	Foreign airmail	Domestic expedited
(1) Electrostat	7	18	8
(2) Photostat	6	15	8
(3) Diazo	10	24	13
(4) Copy negative	4	11	5
(5) Slides (2 by 2 in)	4	10	4
(6) Photographic prints (8 by 10 in or smaller)	4	10	6

Best Available Copy

Type of reproduction	Shipping fee (percent)		
	Foreign surface	Foreign airmail	Domestic expedited
(7) Photographic prints (larger than 8 by 10 in)	14	40	11
(8) Sound and video tapes	7	20	6
(9) Motion pictures	3	11	3
(10) Microfilm [1]	2	4	2

[1] Shipping fees for microfilm publications are included in the "Catalog of National Archives Microfilm Publications".

(e) Registered mail may be used for insurance purposes when the service is requested by the customer. Priority postage rates apply for domestic mailings in addition to the following fees:

Amount insured	Fee
0 to $100	$3.30
$100.01 to $500	3.60
$500.01 to $1,000	3.90
$1,000.01 to $2,000	4.20

Foreign mail may be registered for an additional $3.25. (Maximum indemnity $15.76.)

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); 41 CFR 105-61.000.2)

[40 FR 7928, Feb. 24, 1975, as amended at 40 FR 42881, Sept. 19, 1975; 41 FR 45001, Oct. 14, 1976; 45 FR 28340, Apr. 29, 1980; 46 FR 37652, July 22, 1981]

§ 105-61.5206 Fee schedule.

(a) *Authentication,* $2.00.

(b) Still Photography (minimum order, $5).

Black and white

(1) Copy negatives:	
4 in by 5 in	$4.60
8 in by 10 in	8.65
(2) Aerial prints:	
10 in by 10 in or smaller (contact)	5.00
10 in by 10 in enlargement	5.00
14 in by 14 in	8.80
18 in by 18 in	10.35
20 in by 24 in	10.35
27 in by 28 in	19.55
40 in by 41 in	26.45
Photo-indexes (usually 20 in by 24 in)	10.35
(3) Photographic prints (includes prints from microfilm):	
4 in by 5 in (contact: A contact print is an exact copy of a negative which cannot be altered. The service is available only when there is a 4 in by 5 in negative on file)	2.75
8 in by 10 in or smaller	5.35
11 in by 14 in	6.60
16 in by 20 in	9.80
20 in by 24 in	12.35
22 in by 28 in	14.85
24 in by 30 in	18.40
30 in by 40 in	20.55
Sepia, add	5.20
(4) Slides and transparencies:	
2 in by 2 in from existing negative	2.00
Additional fee when negative must be made	4.60
Color	
2 in by 2 in	3.10
(5) Photostat:	
Paper (up to 17 in by 23 in)	7.25
Film (up to 17 in by 23 in)	8.00
(6) Diazo (per foot)	1.00
(7) 105 mm microfilm prints:	
18 in by 24 in paper copy	1.80

(c) Microfilm.

	16mm rotary	16mm planetary	35mm planetary	35mm oversize
(1) Negative (per frame; minimum order, $11)				
Customer tabs documents for microfilming	$0.03	$0.15	$0.15	$0.52
NARS identifies documents for microfilming	.07	.20	.20	.58
(2) Next generation (per foot; minimum $7 per roll)		.09	.12	
(3) Direct duplicate (per foot; minimum order, $7)		.14	.16	

(d) Microfiche duplication:

(Per ficha, minimum order, $3)	$0.46

(e) Electrostatic copying.

(1) Paper to paper (up to 11 in by 17 in):	
Customer tabs documents for copying	$0.20
NARS identifies documents for copying	.25
(2) Paper to paper (18 in by 24 in)	.50
(3) Oversized electrostatic copies (per foot)	0.90
(4) Red line facsimile (for public laws)	3.15
(5) Microfilm to paper:	
From negative (Copyflo, per foot; minimum order, $11)	1.55
From positive (per frame):	
When work is done by customer (up to 8½ in by 14 in per frame)	.15
When work is done by NARS (minimum mail order, $5):	
Nonconsecutive frames or first of consecutive frame, any size	.85
Consecutive or duplicate frames:	
Up to 8½ in by 14 in	.30
11 in by 17 in	.40
18 in by 24 in	.50
High resolution-wet process (8½ in by 11 in):	
When work is done by customer	.25
When work is done by NARS	.35

Best Available Copy

(f) Sound recordings.

Reel to reel (per minute; minimum order, $6)	$0.60
Cassette (per minute; minimum order, $6)	.50
Film-to-tape sound transfer—16mm sprocketed tape (per minute; minimum order, $17)	3.00
Film-to-tape sound transfer—¼ inch tape (per minute; minimum order, $8)	1.40

(g) Video recordings.

Film to tape:	
10 min	$46.00
20 min	64.00
30 min	79.00
40 min	101.00
50 min	115.00
60 min	131.00
Tape to tape:	
10 min	39.00
20 min	51.00
30 min	60.00
40 min	74.00
50 min	82.00
60 min	91.00

(h) Machine-readable records.

Tape-to-tape copying (per reel)	$86.00
Tape-to-tape printout copying (computer processing time per hour; minimum order, $57)	172.00
Tape-to-printout extract (computer processing time per hour; minimum order $287)	172.00
Tape-to-extract (per output reel)	75.00
(Computer processing time per hour)	172.00
Card-to-card (per card; minimum order, $11)	.02
Tape-to-card (per card; minimum order, $11)	.02

(i) Motion pictures. (minimum order, $17.00)

	35 mm	16mm	16mm from 35mm
Black and white (per foot):			
Master positive	$0.24	$0.21	$0.30
Duplicate negative	.32	.26	.38
Projection print	.21	.17	.29
Work print	.17	.15	.24
Answer print	.23	.23	....
Reversal print	....	.24	.35
Sound track	.20	.16	.28
Composite, add	.01	.01	.03
Color (per foot):			
Master positive	....	.36	....
Duplicate negative	....	.41	....
Projection print	....	.20	....
Reversal print	....	.29	....
Reversal internegative	....	.46	....

(j) Technical services.

	Regular	Overtime
Motion picture preparation (per hour)	$29.00	$33.00
Photographer (per hour)	28.00	32.00
Microfilm preparation (per hour)	20.00	23.00
Sound and video recordings (per hour)	32.00	39.00

[45 FR 28340, Apr. 29, 1980; 45 FR 39258, June 10, 1980; 46 FR 37652, July 22, 1981]

§ 105-61.5207 Payment of fees.

Fees may be paid in cash or by check, or by money order made payable to the National Archives Trust Fund. Remittances from outside the United States must be made by international money order payable in U.S. dollars, or check drawn on a U.S. bank. Checks for prepaid orders over $200 must be certified. Fees must be paid in advance except when the appropriate director approves a request for handling them on an account receivable basis. Purchasers with special billing requirements must state them when placing orders and must complete special forms for NARS approval ahead of time.

46 FR 37653, July 22, 1981]

§ 105-61.5208 Effective date.

The fees in § 105-61.5206 are effective upon publication in the FEDERAL REGISTER.

[46 FR 37653, July 22, 1981]

Subpart 105-61.53—Restrictions on the Use of Records

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); 41 CFR 105-61.000-2.

SOURCE: 40 FR 56892, Dec. 5, 1975, unless otherwise noted.

§ 105-61.5300 Scope of subpart.

This subpart contains material referred to in § 105-61.103-1.

§ 105-61.5301 Restrictions on access.

The use of some archives and donated historical materials transferred to the National Archives of the United States, especially those of recent date, is subject to restrictions prescribed in statute or Executive order, or restrictions specified by the donor or agency

Best Available Copy

from which the records were transferred and imposed by the Archivist of the United States. Restrictions on access to particular records that have been specified by the donor or transferring agency are known as "specific restrictions." Restrictions on access that may apply to more than one record group are termed "general restrictions," and apply to the winds of information or classes of records designated, regardless of the record group to which such records have been allocated. Both specific and general restrictions have been published in the "Guide to the National Archives of the United States." (See § 105-61.103-1.) Sections 105-61.5302 and 105-61.5303 contain restrictions that have been added or revised since the publication of the latest edition of the Guide.

§ 105-61.5302 General restrictions.

§ 105-61.5302-6 Investigatory records.

(a) *Records.* Investigatory records compiled for law enforcement purposes that relate to events less than 50 years old to the extent that disclosure would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel. Excluded are records series of the Department of Defense and all components and predecessors thereof specified in general restriction 12.

(b) *Restrictions.* Information in these records will be made available only as authorized by an appropriate official of the originating agency or its successor agency.

(c) *Imposed by.* Archivist of the United States.

§ 105-61.5302-8 Immigration and naturalization certificates and declarations.

(a) *Records.* Certificates of arrival, declarations of intention, certificates of naturalization, and certificates of citizenship, regardless of the length of time they have been in existence.

(b) *Restrictions.* Certified copies of the records of the kinds enumerated above shall not be furnished. Uncertified copies of these records may be furnished. Requests for certified copies shall be referred to the Immigration and Naturalization Service.

(c) *Specified by.* Department of Justice.

§ 105-61.5302-18 Individual privacy.

(a) *Records.* Records that contain information about a living individual which reveal details of a highly personal nature which the individual could reasonably assert a claim to withhold from the public to avoid a clearly unwarranted invasion of privacy, and that:

(1) Contain personal information not known to have been previously made public; and

(2) Relate to events less than 75 years old.

(b) *Restrictions.* Such records may be disclosed:

(1) To those officers and employees of the agency that transferred the records to NARS who have a need for the record in the performance of their official duties;

(2) To those officers and employees of the agency that originated the information in the records who have a need for the records in the performance of their officials duties;

(3) To qualified researchers for purposes of statistical or quantitative research when such researcher has provided NARS with advance adequate written assurance that the record will be used solely as a statistical research or reporting record and that no individually identifiable information will be disclosed; or

(4) To the subject individual or his duly authorized representative (the individual requesting access will be required to furnish reasonable and appropriate identification) with the following exceptions: (i) Investigatory

material compiled for law enforcement purposes or for the purposes of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, or Federal contracts will not be released if the disclosure of such material would reveal the identity of a source who furnished information to the Government under an expressed or implied promise of confidence; (ii) evaluation material used to determine potential for promotion in the armed services if disclosure of such material would reveal the identity of the source who furnished such information to the Government under an expressed or implied promise of confidence; and (iii) access to security classified material.

(c) *Imposed by.* Archivist of the United States in accordance with 5 U.S.C. 552 and 44 U.S.C. 2104.

§ 105-61.5303 Specific restrictions.

§ 105-61.5303-13 Records of the National Mediation Board.

(a) *Records.* All case files of the National Mediation Board, including those for EB (emergency board) cases, I (interpretation) cases, E (emergency) cases, A (mediation) cases, R (representation) cases, and ARB (arbitration) cases.

(b) *Restrictions.* Records less than 50 years old may not be examined by or copies of or information from them furnished to any person except by permission of the Executive Secretary, National Mediation Board.

(c) *Specified by.* National Mediation Board.

(d) *Records.* Files of Robert O. Boyd, ca. 1954-62.

(e) *Restrictions.* These records may not be examined by or copies of or information from them furnished to any person except by permission of the Executive Secretary, National Mediation Board.

(f) *Specified by.* National Mediation Board.

§ 105-61.5303-29 Records of the Bureau of the Census.

(a) *Records.* Post-1900 census schedules more than 50 years old. *Restrictions.* (1) No one other than the Secretary of Commerce or his authorized representatives may examine these records. (2) Copies of these records may be provided only to the Secretary of Commerce or his authorized representatives. *Imposed by.* Archivist of the United States.

(b) *Records.* Census schedules less than 50 years old. *Restrictions.* These records may not be examined by or copies of or information from them provided to any person other than sworn employees of the Department of Commerce having proper authorization from the Secretary of Commerce or his designee. *Specified by.* Secretary of Commerce.

[42 FR 64895, Dec. 29, 1977]

§ 105-61.5303-43 Records of International Conferences, Commissions, and Expositions.

(a) *Records.* Records relating to participation in international conferences, commissions, and committees dated later than 1949.

(b) *Restrictions.* These records may be used only with the permission of the Department of State.

(c) *Specified by.* Department of State.

§ 105-61.5303-56 General Records of the Department of the Treasury.

(a) *Records.* Samples of series of recorded radio programs sponsored by the Treasury Department during 1941-48.

(b) *Restrictions.* There are copyright or contractural restrictions applicable to most of these recordings. No recordings with contractural restrictions may be reproduced without the consent of the Department of the Treasury.

(c) *Specified by.* Department of the Treasury.

[46 FR 14015, Feb. 25, 1981]

§ 105-61.5303-59 General Records of the Department of State.

(a) *Records.* All records dated later than December 31, 1949, except Presidential nominations, copies of commissions, oaths of office, and related records concerning appointment to the Federal service; and Senate confirmations and rejections of appointments.

(1) Records of the following classes that are less than 50 years old: Records that relate to unsettled claims in which the United States or its citizens have a financial interest; Foreign Service inspection reports; applications and recommendations for appointment to public office or for transfer from one post or position to another; records that relate to the efficiency, security, financial affairs, medical history, personal property, or private affairs of employees, former employees, or prospective employees of the U.S. Government; trade secrets and commercial or financial information received by the U.S. Government as privileged or confidential; and classified records originated by other Federal agencies, foreign governments, or international organizations, except insofar as such records are open under the regulations or practice of the originating agency, government, or organization.

(2) Records of the following classes that are less than 75 years old: Records concerning passports and related citizenship matters; intelligence and counterintelligence documents and reports; records of the investigation of persons or groups of persons by investigative authorities of the United States or foreign governments; name files relating to the issuance or refusal of visas; and other records the disclosure of which would constitute a clearly unwarranted invasion of privacy or a breach of confidence placed in the U.S. Government.

(b) *Restrictions.* These records may be used by official and nonofficial researchers only with the permission of the Department of State.

(c) *Specified by.* Department of State.

§ 105-61.5303-60 General Records of the Department of Justice.

(a) *Records.* All records less than 25 years old except the following classes of the central files:

Class 3. Weeks Forestry Act.
Class 22. Food and Drug.
Class 33. Federal Buildings Act.
Class 38. Naturalization.
Class 39. Immigration.
Class 66. Rentals and Leases.
Class 76. Opinions of Courts.
Class 77. Claims in Favor of the United States.
Class 100. Miscellaneous Correspondence.
Class 101. Mortgage and Lien Foreclosure Act.
Class 103. Wills, Bequests, Gifts.
Class 154. Court of Claims Cases.

(b) *Restrictions.* Only authorized employees of the Department of Justice and other persons specifically authorized by the Attorney General or his alternate in archival matters may have access to the restricted records.

(c) *Specified by.* Department of Justice.

§ 105-61.5303-75 Records of the Bureau of Indian Affairs.

(a) *Records.* "Individual Indian Case Files" accessioned by the regional archives branches.

(b) *Restrictions.* These records are closed until 1995 except with the written permission of the Commissioner of Indian Affairs.

(c) *Specified by.* Bureau of Indian Affairs.

§ 105-61.5303-76 Records of Boundary and Claims Commissions and Arbitrations.

(a) *Records.* All records less than 50 years old that relate to unsettled claims in which the United States or its citizens have a financial interest, and all other records dated after 1949.

(b) *Restrictions.* These records may be used only with the permission of the Department of State.

(c) *Specified by.* Department of State.

§ 105-61.5303-80 General Records of the Department of the Navy, 1798-1947.

(a) *Records.* Photographic records of the Department of the Navy accessioned from the Naval Photographic Center, Washington, comprising the Department of the Navy's official "general" still picture history file.

(b) *Restrictions.* Access may be granted to these photographic records except that when the records are not marked or otherwise stamped "Released," the approval of the Chief of Information, Navy Department, must be obtained before reproductions thereof are furnished.

(c) *Specified by.* Assistant Vice Chief of Naval Operations/Director of Naval Administration.

§ 105-61.5303-81 Records of the United States Tariff Commission.

(a) *Records.* Records in the general files of the Tariff Board and the U.S. Tariff Commission that contain information on trade secrets and processes.

(b) *Restrictions.* "It shall be unlawful for any member of the Commission, * * * or any other officer or employee of the United States, to divulge, or to make known in any manner whatever not provided for by law, to any person, the trade secrets or processes of any person, firm, * * * or association embraced in any examination or investigation conducted by the Commission, * * *" (39 Stat. 798 and 46 Stat. 701).

(c) *Specified by.* Congress of the United States.

(d) *Records.* Records in the general files of the U.S. Tariff Commission that are marked "Confidential."

(e) *Restrictions.* These records may not be examined by or copies of or information from them furnished to any person except as designated by the Tariff Commission.

(f) *Specified by.* U.S. Tariff Commission.

(g) *Records.* Records in the central correspondence file, 1916-54, that are marked "Business Confidential" or "Information Submitted in Confidence" or that have any notation of similar import.

(h) *Restrictions.* These records may not be examined by or copies of or information from them furnished to any person except with the permission of the Tariff Commission.

(i) *Specified by.* U.S. Tariff Commission.

(j) *Records.* Docketed case files and other records pertaining to investigations of the Tariff Commission, 1922-66; reports of the Tariff Commission on imports, exports, trade restrictions, and foreign countries, 1922-46; reports pertaining to commodities essential for national defense and the prosecution of the war, 1938-45; records received from courts pertaining to tariff acts, 1922-32; and publications of defense and wartime agencies, 1941-43.

(k) *Restrictions.* These records may not be examined by or copies of or information from them furnished to any person except by written permission of the Secretary of the U.S. Tariff Commission.

(l) *Specified by.* U.S. Tariff Commission.

§ 105-61.5303-84 Records of the Foreign Service Posts of the Department of State.

(a) *Records.* All records dated later than December 31, 1949. Records of the following classes that are less than 50 years old: Records that relate to unsettled claims in which the United States or its citizens have a financial interest; Foreign Service inspection reports; records that relate to the efficiency, security, financial affairs, medical history, personal property, or private affairs of employees, former employees, or prospective employees of the U.S. Government; trade secrets and commercial or financial information received by the U.S. Government as privileged or confidential; and classified records originated by other Federal agencies, foreign governments, or international organizations and conferences that were furnished to the Department of State for its information.

(1) Records of the following classes that are less than 75 years old: Records concerning passports and related citizenship matters; intelligence and counterintelligence documents and reports; records of investigation of persons or groups of persons by investigative authorities of the United States or foreign governments; name files relating to the issuance or refusal of visas; and other records the disclosure of which would constitute a clearly unwarranted invasion of privacy or a breach of confidence placed in the U.S. Government.

(b) *Restrictions.* These records may be used only with the permission of the Department of State.

(c) *Specified by.* Department of State.

§ 105-61.5303-104 Records of the Bureau of the Mint.

(a) *Records.* All records pertaining to dies, without regard to date, and records of gold and silver deposits less than 75 years old.

(b) *Restrictions.* No one may examine these records except persons authorized by the Director of the Mint.

(c) *Specified by.* Director of the Mint.

§ 105-61.5303-146 Records of the United States Civil Service Commission.

(a) *Records.* Position allocation appeal dossiers.

(b) *Restrictions.* All requests for information about specific individuals will be refered for determination of action thereon to the Chairman of the Civil Service Commission or a member of his staff authorized to act for him. Determination of action on all other requests will be made by the Archivist * * * subject to the specific requirement that each person seeking information from these records will obligate himself not to reveal the names of individuals as obtained from them without the written approval of the Chairman of the Civil Service Commission or a member of his staff authorized to act for him.

(c) *Specified by.* U.S. Civil Service Commission.

§ 105-61.5303-167 Records of the National Bureau of Standards.

(a) *Records.* "National Bureau of Standards Reports" maintained by the Office of Technical Information and Publications, 1951-68, and Joint Institute for Laboratory Astrophysics reports, 1963-67.

(b) *Restrictions.* Authorization for access to these reports must be secured from the Office of Technical Information and Publications of the National Bureau of Standards or from the individual sponsors of the reports.

(c) *Specified by.* Director of the National Bureau of Standards.

§ 105-61.5303-173 Records of the Federal Communications Commission.

(a) *Records.* Microfilm copies of the formal official minutes of the FCC bearing security or other classification mark.

(b) *Restrictions.* No one may examine these records or be given information from them or copies of them except by permission of the FCC.

(c) *Specified by.* Federal Communications Commission.

(d) *Records.* Annual financial reports filed by licensees and permittees of standard, FM, television, and international broadcast stations with the FCC in accordance with § 0.417 of the FCC Rules and Regulations.

(e) *Restrictions.* These records are not open to public inspection unless special permission is granted by the FCC upon written request describing in detail the documents to be inspected and the reasons therefor.

(f) *Specified by.* Federal Communications Commission.

(g) *Records.* Records of the Interdepartment Radio Advisory Committee, 1922-49.

(h) *Restrictions.* No one may examine these records or be given information from them or copies of them except by permission of the Interdepartment Radio Advisory Committee.

(i) *Specified by.* Interdepartment Radio Advisory Committee.

(j) *Records.* Magnetic tape copies of data relating to the licensing of amateur, aircraft, citizen, and marine radio stations.

(k) *Restrictions.* No one may examine these records or be given information from them or copies of them except by permission of the FCC.

(l) *Specified by.* Federal Communications Commission.

(m) *Records.* Magnetic tape of the Legal Index Master File of the Office of the General Counsel.

(n) *Restrictions.* No one may examine these records or be given information from them except by permission of the FCC.

(o) *Specified by.* Federal Communications Commission.

§ 105-61.5303-197 Records of the Civil Aeronautics Board.

(a) *Records.* Minutes of the Civil Aeronautics Board and its predecessor agency, the Civil Aeronautics Authority (dating from 1938).

(b) *Restrictions.* No one may examine these records or be given information from them or copies of them except by permission of the Civil Aeronautics Board or its Secretary.

(c) *Specified by.* Civil Aeronautics Board.

(d) *Records.* Magnetic tapes of "Origin Destination Survey of Airline Passenger Traffic."

(e) *Restrictions.* Access can be granted only upon written permission of the Chief of the Statistical Data Division, Bureau of Accounts and Statistics, Civil Aeronautics Board.

(f) *Specified by.* Civil Aeronautics Board.

(g) *Records.* The Chairman's subject and pay files and the general files of the Office of the Chairman.

(h) *Restrictions.* Access can be granted only with permission from the Office of the Chairman.

(i) *Specified by.* Office of the Chairman, Civil Aeronautics Board.

§ 105-61.5303-200 National Archives Gift Collection.

(a) *Records.* X-rays and photographs relating to the autopsy of President John F. Kennedy.

(b) *Restrictions.* Access to these materials is limited to persons authorized to act for a committee of the Congress, a Presidential commission, or any other agency of the Federal Government having authority to investigate matters relating to the assassination of President Kennedy; and recognized experts in the field of pathology or related areas of science or technology for serious purposes relevant to the investigation of matters relating to the death of President Kennedy. The determination of whether such an expert has suitable qualifications and serious purposes will be made by the Kennedy family representative.

(c) *Specified by.* Archivist of the United States in conformity with the letter agreement between the Administrator of General Services and the Kennedy family representative dated October 29, 1966.

(d) *Records.* Earle H. Clapp Papers, 1905-70.

(e) *Restrictions.* Some of the files dealing with the reorganization of the Forest Service are restricted until July 1, 1987.

(f) *Specified by.* The donor.

(g) *Records.* Ernst-Schwartz Collection, 1956-58.

(h) *Restrictions.* Six items are withheld from research until December 28, 1984.

(i) *Specified by.* The donors and the Central Intelligence Agency.

(j) *Records.* Herman Finer Papers, 1935-38.

(k) *Restrictions.* The records are to be closed "during the lifetime of any surviving members of the original Board of Directors of the TVA."

(l) *Specified by.* The donor.

(m) *Records.* Ernst Posner Papers, 1928-70.

(n) *Restrictions.* Access to some of the records may be granted only with Dr. Posner's permission until December 31, 1989.

(o) *Specified by.* The donor.

§ 105-61.5303-210 Records of the War Relocation Authority.

(a) *Records.* Evacuee case files closed less than 50 years.

(b) *Restrictions.* Such records may be examined only by authorized representatives of Federal and State government agencies officially concerned with them and by the evacuee or his legal representative. No information based on such records will be furnished without the written consent of the person concerned, his legal representative, or (after his death) his next of kin, except that a summary statement of interment and employment may be furnished. Access to these records for quantitative or statistical studies, if no reference is made to individuals, may be granted by the Department of the Interior.

(c) *Specified by.* Secretary of the Interior in conformity with Pub. L. 90-23 of June 5, 1967 (81 Stat. 54).

§ 105-61.5303-220 Records of Presidential Committees, Commissions, and Boards.

(a) *Records of the War Refugee Board, 1944-45*—(1) *Records.* All records.

(2) *Restrictions.* These records may be used by official and unofficial researchers only with the permission of the Department of State.

(3) *Specified by.* Department of State.

(b) *Records of the American War Production Mission in China. 1944-45*—(1) *Records.* All records.

(2) *Restrictions.* These records may be used by official and unofficial researchers only with the permission of the Department of State.

(3) *Specified by.* Department of State.

(c) *Records of the President's Air Policy Commission. 1947-48*—(1) *Records.* All records.

(2) *Restrictions.* These records may not be examined by or information from or copies of them provided to any person other than a Government official for official purposes except as approved in each instance by the Archivist of the United States.

(3) *Specified by.* The Commission.

(d) *Records of the Commission on the Renovation of the Executive Mansion. 1949-52*—(1) *Records.* Blueprints, drawings, and photographs of the White House.

(2) *Restrictions.* No access may be had to these records without the express approval of the U.S. Secret Service.

(3) *Specified by.* The U.S. Secret Service.

(e) *Records of the President's Advisory Committee on Government Organization. 1953-61*—(1) *Records.* All records of the Committee.

(2) *Restrictions.* These records may not be made available to any person without the written permission of the Director of the Office of Management and Budget or his authorized representative.

(3) *Specified by.* Office of Management and Budget.

(f) *Records of the Commission on International Rules of Judicial Procedure. 1958-66*—(1) *Records.* Any records originating with the Department of Justice that are less than 25 years old.

(2) *Restrictions.* Only authorized employees of the Department of Justice and other persons specifically authorized by the Attorney General or his alternate may have access to these records.

(3) *Specified by.* Department of Justice.

(4) *Records.* All records originating with the Department of State.

(5) *Restrictions.* These records may be used by official and nonofficial researchers only with the permission of the Department of State.

(6) *Specified by.* Department of State.

(g) *Records of the Presidential Railroad Commission. 1960-62*—(1) *Records.* Records in the general files of the Commissioner's Chairman, Executive Director, and Deputy Executive Director that were not circulated to the full Commission.

(2) *Restrictions.* These records are closed to unofficial inquirers until March 1, 1982, except as authorized by the Secretary of Labor, the Administrative Assistant Secretary, or a representative of either.

(3) *Specified by.* Department of Labor.

(h) *President's Advisory Committee on Labor-Management Policy. 1961-73*—(1) *Records.* Records of the President's Advisory Committee on Labor-Management Policy.

(2) *Restrictions.* No one may examine these records or be given copies of or information from them before July 1, 1983, except by permission of the Secretary of Labor or his authorized representative(s).

(3) *Specified by.* Secretary of Labor.

(i) *Records of the President's Committee on Juvenile Delinquency and Youth Crime. 1961-70*—(1) *Records.* All records of the Committee.

(2) *Restrictions.* Requests for access to these records are to be referred to the Assistant Attorney General for Administration, Department of Justice.

(3) *Specified by.* Department of Justice.

(j) *Records of the President's Committee on Equal Opportunity in the Armed Forces. 1962-65*—(1) *Records.* All records of the Committee.

(2) *Restrictions.* These records will be made available only upon the written authorization of an appropriate White House officer.

(3) *Specified by.* The Committee.

(k) *Records of the President's Commission on Postal Organization. 1967-68*—(1) *Records.* "Commission Hearings" and "Commission Interviews: Prominent Individuals" among the records.

(2) *Restrictions.* Access to these records is subject to the approval of the Postmaster General or his authorized representative.

(3) *Specified by.* Post Office Department.

(l) *Records of the President's Committee on Urban Housing. 1967-68*—(1) *Records.* Minutes of the Committee's meetings and the Executive Director's files; correspondence of Committee members; correspondence with the White House; and the Committee's interim report to the President (not released nor intended for release).

(2) *Restrictions.* Access to these records is limited to persons having the written permission of an authorized member of the White House Staff.

(3) *Specified by.* The Committee.

(m) *Records of the Commission on Obscenity and Pornography. 1967-70.* (1) *Records.* Records of the Traffic and Distribution Panels, containing information received in confidence from private firms.

(2) *Restrictions.* These records shall not be available to researchers until July 24, 1995.

(3) *Specified by.* The Commission.

(n) *Records of the President's Commission on Income Maintenance Programs. 1968-70*—(1) *Records.* Transcripts of closed meeting (executive sessions) of the commissioners.

(2) *Restrictions.* No one may have access to these records until February 26, 1980.

(3) *Specified by.* The Commission.

(o) *Records of the President's Commission on Campus Unrest. 1970*—(1) *Records.* Investigatory files consisting of stenotapes of Commission sessions and files relating to the Kansas, Wisconsin, Jackson State, and Kent State investigations.

(2) *Restrictions.* These records are withheld from research for 75 years, and access to them can be obtained only with the permission of the former Chairman of the Commission during his life and thereafter only with the permission of the President of the United States. For FBI documents and information from such documents, the permission of the FBI is also necessary.

§ 105-61.5303-227 Records of the Office of Scientific Research and Development.

(a) *Records.* All records of the Office of Scientific Research and Development (OSRD) or any of its components that reveal substantive information concerning research and development projects and contracts of Division 19 (Miscellaneous Weapons) of the National Defense Research Committee (NDRC) of OSRD, Section S-1 (Atomic Energy) of NDRC-OSRD, the Uranium Committee of NDRC, or the Executive Committee of S-1 in OSRD; and any OSRD records other than those mentioned above that are security classified by order of the Department of Defense dated August 2, 1960.

(b) *Restrictions.* No one may examine these records or be given information from them or copies of them without the written permission of a duly authorized official of the Atomic Energy Commission, with respect to records relating to atomic energy, and of the Department of Defense, with respect to the other security-classified records.

(c) *Specified by.* Archivist of the United States in agreement with the Chairman of the Atomic Energy Commission, in regard to atomic energy, and with the Secretary of Defense, in regard to all other OSRD activities.

§ 105-61.5303-257 Records of the Bureau of Labor Statistics.

(a) *Records.* Collective-bargaining agreements designated as "Confidential" when filed with the Bureau of Labor Statistics by employers, trade associations, and trade unions, 1941-45.

(b) *Restrictions.* These records shall not be made available to private inquirers unless, in any particular case, the inquirer has obtained prior written permission from the parties to the agreement or agreements in question.

(c) *Specified by.* Commissioner of Labor Statistics.

(d) *Records.* Central correspondence file of the Bureau of Labor Statistics, 1939-49; and correspondence of the Commissioner of Labor Statistics, 1933 and 1935-43.

(e) *Restrictions.* No one may examine these records or be given copies of or information from them except by permission of the Commissioner of Labor Statistics or his authorized representatives.

(f) *Specified by.* Bureau of Labor Statistics.

(g) *Records.* Cost-of-living schedules, Consumer Expenditure Survey schedules, Study of Consumer Purchases schedules, wage earner money disbursement schedules, food consumption schedules, and related material.

(h) *Restrictions.* (1) No record shall be removed from the National Archives without specific authorization from the Bureau of Labor Statistics records officer, (2) personal information, including individual or firm names, addresses, or telephone numbers, shall not be removed, copied, or reproduced under any circumstances except by Bureau of Labor Statistics personnel who have been authorized to do so by the Bureau of Labor Statistics records officer.

(i) *Specified by.* Bureau of Labor Statistics.

§ 105-61.5303-266 Records of the Securities and Exchange Commission.

(a) *Records.* Records relating to the administration of the Securities Act of 1933, as amended, consisting of correspondence files and records relating to private hearings that bear the tertiary file numbers -3 (correspondence) and -5 (investigations), respectively.

(b) *Restrictions.* No one may examine these records or obtain information from them or copies of them except the records officer of the Commission who is authorized to withdraw the files on official loan.

(c) *Specified by.* Securities and Exchange Commission.

(d) *Records.* Institutional Investors Study data except public files.

(e) *Restrictions.* Access to these records is limited to personnel of the Securities and Exchange Commission.

(f) *Specified by.* Securities and Exchange Commission.

(g) *Records.* Daily trading information for New York and American Stock Exchange issues.

(h) *Restrictions.* Access to these records requires approval of the Securities and Exchange Commission and written permission from Standard and Poors, Inc.

(i) *Specified by.* Securities and Exchange Commission.

§ 105-61.5303-267 Records of the Supreme Court of the United States.

(a) *Records.* Audiotape recordings.

(b) *Restrictions.* (1) The tapes may be played for Federal personnel; in connection with official duties and to the general public for serious scholarly and legal research; (2) typewritten transcriptions of the tapes may be furnished to these persons for a fee, provided that in each instance three copies of these transcriptions are deposited in the Library of the Court; (3) copies of the tapes may not be furnished to persons other than the Justices without the permission of the Marshal of the Court, and until 3 years have expired since the argument of a recorded case; (4) the National Archives and Records Service may not identify the voices of members of the Court in connection with any use of the tapes, either while they are being played or in making or furnishing transcriptions; (5) copies of the tapes will not be reproduced for commercial purposes.

(c) *Specified by.* Supreme Court of the United States.

(d) *Records.* Transcripts of oral arguments, 1968-69.

(e) *Restrictions.* Duplicating or copying these transcripts by photographic, electrostatic, or other facsimile means is prohibited.

(f) *Specified by.* Supreme Court of the United States.

§ 105-61.5303-275 Records of the Export-Import Bank of the United States.

(a) *Records.* Case files relating to credit granted to foreign nations and domestic or foreign firms to aid the foreign trade of the United States, 1934-67.

(b) *Restrictions.* No one may examine these records or be given information from them or copies of them except by permission of the Administrative Officer of the Export-Import Bank of the United States.

(c) *Specified by.* Administrative Officer, Export-Import Bank of the United States.

§ 105-61.5303-280 Records of the Federal Mediation and Conciliation Service.

(a) *Records.* Dispute case records of the U.S. Conciliation Service and the Federal Mediation and Conciliation Service, 1913-69, "special assignment" and "related activities" case files pertaining to labor-management mediation and internal assignments of various types, 1957-69; and dispute case files of the Missile Sites Labor Commission, ca. 1961-67.

(b) *Restrictions.* These records may not be examined by or copies of or information from them furnished to any person except by permission of the Director of Administrative Management, Federal Mediation and Conciliation Service, or his authorized representatives.

(c) *Specified by.* Federal Mediation and Conciliation Service.

§ 105-61.5303-353 Records of the Interdepartmental and Intradepartmental Committees (State Department).

(a) *Records.* All records dated after December 31, 1949.

(b) *Restriction.* They may be used for official use by officers and employees of the U.S. Government only with the permission of the Department of State.

(c) *Specified by.* Department of State.

§ 105-61.5303-354 Records of the Office of Science and Technology.

(a) *Records.* All records.

(b) *Restrictions.* These records may not be examined by or copies of or information from them furnished to any person except by permission of the National Science Foundation.

(c) *Specified by.* National Science Foundation.

§ 105-61.5303-396 Records of the Office of Emergency Preparedness.

(a) *Records.* Personal correspondence of Gen. Lincoln that is included in the official files.

(b) *Restrictions.* Until December 31, 1976, only persons authorized by Gen. Lincoln may use these files.

(c) *Specified by.* General Services Administration.

§ 105-61.5303-418 Records of St. Elizabeths Hospital.

(a) *Records.* All records less than 75 years old that contain clinical information.

(b) *Restrictions.* These records may be used only with the permission of the Superintendent of St. Elizabeths Hospital or his duly authorized representative.

(c) *Specified by.* Superintendent of St. Elizabeths Hospital.

PART 105-62—DOCUMENT SECURITY AND DECLASSIFICATION

Sec.
105-62.000 Scope of part.

Subpart 105.62.1—Classified Materials

105-62.101 Security classification categories.
105-62.102 Authority to originally classify.
105-62.103 Access to GSA-originated materials.

Subpart 105-62.2—Declassification and Downgrading

105-62.201 Declassification and downgrading.
105-62.202 Review of classified materials for declassification purposes.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); and Executive Order 12065 dated June 28, 1978.

SOURCE: 44 FR 64805, Nov. 8, 1979, unless otherwise noted.

§ 105-62.000 Scope of part.

This part prescribes procedures for safeguarding national security information and material within GSA. They explain how to identify, classify, downgrade, declassify, disseminate, and protect such information in the interests of national security. They also supplement and conform with Executive Order 12065 dated June 28, 1978, subject: National Security Information, and the Implementing Directive dated September 29, 1978, issued through the Information Security Oversight Office.

Subpart 105-62.1—Classified Materials

§ 105-62.101 Security classification categories.

As set forth in Executive Order 12065, official information or material which requires protection against unauthorized disclosure in the interests of the national defense or foreign relations of the United States (hereinafter collectively termed "national security") shall be classified in one of three categories: Namely, Top Secret, Secret, or Confidential, depending on its degree of significance to the national security. No other categories shall be used to identify official information or material as requiring protection in the interests of national security except as otherwise expressly provided by statute. The three classification categories are defined as follows:

(a) *Top Secret.* Top Secret refers to that national security information which requires the highest degree of protection, and shall be applied only to such information as the unauthorized disclosure of which could reasonably be expected to cause exceptionally grave damage to the national security. Examples of exceptionally grave damage include armed hostilities against the United States or its allies, disruption of foreign relations vitally affecting the national security, intelligence sources and methods, and the compromise of vital national defense plans or complex cryptologic and communications systems. This classification shall be used with the utmost restraint.

(b) *Secret.* Secret refers to that national security information or material which requires a substantial degree of protection, and shall be applied only to such information as the unauthorized disclosure of which could reasonably be expected to cause serious damage to the national security. Examples of serious damage include disruption of foreign relations significantly affecting the national security, significant impairment of a program or policy directly related to the national security, and revelation of significant military plans or intelligence operations. This classification shall be used sparingly.

(c) *Confidential.* Confidential refers to other national security information which requires protection, and shall be applied only to such information as the unauthorized disclosure of which could reasonably be expected to cause identifiable damage to the national security.

§ 105-62.102 Authority to originally classify.

(a) *Top Secret, Secret, and Confidential.* The authority to originally classify information as Top Secret, Secret, or Confidential may be exercised only by the Administrator and is delegable only to the Director, Information Security Oversight Office.

(b) *Limitations on delegation of classification authority.* Delegations of original classification authority are limited to the minimum number absolutely required for efficient administration. Delegated original classification authority may not be redelegated.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); and Executive Order 12065 dated December 1, 1978)

[47 FR 5416, Feb. 5, 1982]

§ 105-62.103 Access to GSA-originated materials.

Classified information shall not be disseminated outside the executive branch of the Government without the express permission of the GSA Security Officer except as otherwise provided in this § 105-62.103.

(a) *Access by historical researchers.* Persons outside the executive branch who are engaged in historical research projects, may be authorized access to classified information or material, provided that:

(1) A written determination is made by the Administrator of General Services that such access is clearly consistent with the interests of national security.

(2) Access is limited to that information over which GSA has classification jurisdiction.

(3) The material requested is reasonably accessible and can be located with a reasonable amount of effort.

(4) The person agrees to safeguard the information and to authorize a review of his or her notes and manu-

script for determination that no classified information is contained therein by signing a statement entitled "Conditions Governing Access to Official Records for Historical Research Purposes."

(5) An authorization for access shall be valid for a period of 2 years from the date of issuance and may be renewed under the provisions of this § 105-62.103(a).

(b) *Access by former Presidential appointees.* Persons who previously occupied policymaking positions to which they were appointed by the President may not remove classified information or material upon departure from office as all such material must remain under the security control of the U.S. Government. Such persons may be authorized access to classified information or material which they originated, received, reviewed, signed, or which was addressed to them while in public office, provided that the GSA element having classification jurisdiction for such information or material makes a written determination that access is consistent with the interests of national security, approval is granted by the GSA Security Officer, and the individual seeking access agrees:

(1) To safeguard the information,

(2) To authorize a review of his or her notes for determination that no classified information is contained therein, and

(3) To ensure that no classified information will be further disseminated or published.

(c) *Access during judicial proceedings.* Classified information will not normally be released in the course of any civilian judicial proceeding. In special circumstances however, and upon the receipt of an order or subpoena issued by a Federal court, the Administrator may authorize the limited release of classified information if he or she determines that the interests of justice cannot otherwise be served. Appropriate safeguards will be established to protect such classified material released for use in judicial proceedings.

(d) *Access to material in NARS custody.* The Archivist of the United States prepares procedures governing access to materials transferred to NARS custody. These procedures are issued by the Administrator of General Services in 41 CFR Part 105-61.

(e) *Access by the General Accounting Office and congressional committees.* Classified information may be released to the General Accounting Office (GAO) and congressional committees when specifically authorized by the GSA Security Officer except as otherwise provided by law.

Subpart 105-62.2—Declassification and Downgrading

§ 105-62.201 Declassification and downgrading.

(a) *Authority to downgrade and declassify.* The authority to downgrade and declassify national security information or material shall be exercised as follows:

(1) Information or material may be downgraded or declassified by the GSA official authorizing the original classification, by a successor in capacity, by a supervisory official of either, or by the Information Security Oversight Committee on appeal.

(2) Downgrading and declassification authority may also be exercised by an official specifically authorized by the Administrator.

(3) In the case of classified information or material officially transferred to GSA by or under statute or Executive order in conjunction with a transfer of functions and not merely for storage purposes, GSA shall be deemed the originating agency for all purposes under these procedures including downgrading and declassification.

(4) In the case of classified information or material held in GSA not officially transferred under paragraph (a)(3) of this section but originated in an agency which has since ceased to exist, GSA is deemed the originating agency. Such information or material may be downgraded and declassified 30 calendar days after consulting with any other agencies having an interest in the subject matter.

(5) Classified information or material under the final declassification jurisdiction of GSA which has been transferred to NARS for accession into

the Archives of the United States may be downgraded and declassified by the Archivist of the United States in accordance with Executive Order 12065, directives of the Information Security Oversight Office, and the systematic review guidelines issued by the Administrator of General Services.

(6) It is presumed that information which continues to meet classification requirements requires continued protection. In some cases, however, the need to protect such information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified. When such questions arise they shall be referred to the Administrator, the Director of the Information Security Oversight Office, or in accordance with the procedures for mandatory review described in § 105-62.202(b).

(b) *Declassification.* Declassification of information shall be given emphasis comparable to that acccorded classification. Information classified under Executive Order 12065 and prior orders shall be declassified as early as national security considerations permit. Decisions concerning declassification shall be based on the loss of sensitivity of the information with the passage of time or on the occurrence of an event which permits declassification. When information is reviewed for declassification it shall be declassified unless the declassification authority established in § 105-62.202 determines that the information continues to meet the classification requirements prescribed despite the passage of time.

(c) *Downgrading.* Classified information that is marked for automatic downgrading is downgraded accordingly without notification to holders. Classified information that is not marked for automatic downgrading may be assigned a lower classification designation by the originator or by an official authorized to declassify the same information. Notice of downgrading shall be provided to known holders of the information.

§ 105-62.202 Review of classified materials for declassification purposes.

(a) *Systematic review for declassification.* Except for foreign government information, classified information constituting permanently valuable records of GSA as defined by 44 U.S.C. 2103, and information in the possession and under control of NARS, under 44 U.S.C. 2107 or 2107 note, shall be reviewed for declassification as it becomes 20 years old. Transition to systematic review at 20 years shall be implemented as rapidly as practicable and shall be completed by December 1, 1988. Foreign government information shall be reviewed for declassification as it becomes 30 years old.

(b) *Mandatory review for declassification.* All classified information upon request by a member of the public or a Government employee or agency to declassify and release such information under the provisions of Executive Order 12065 shall be reviewed by the responsible GSA element for possible declassification in accordance with the procedures set forth in paragraphs (c) through (g) of this section.

(c) *Submission of requests for review.* Requests for mandatory review of classified information shall be submitted in accordance with the following:

(1) Requests originating within GSA shall in all cases be submitted directly to the service or staff office that originated the information.

(2) For expeditious action, requests from other governmental agencies or from members of the public should be submitted directly to the service or staff office that originated the material, or, if the originating element is not known, or no longer exists, the requester shall submit the request to the GSA Security Officer who shall cause such request to be reviewed.

(d) *Requirements for processing.* Requests for declassification review and release of information shall be processed in accordance with the provisions set forth in paragraphs (e) through (h) of this section subject to the following conditions:

(1) The request is in writing and reasonably describes the information sought with sufficient particularity to enable the element to identify it.

(2) The requester shall be asked to correct a request that does not comply with paragraph (d)(1) of this section, to provide additional information.

(3) If within 30 days the requester does not correct the request, describe the information sought with sufficient particularity or narrow the scope of the request, the element that received the request shall notify the requester and state the reason why no action will be taken on the request.

(e) *Processing of requests.* Requests that meet the foregoing requirements for processing will be acted upon as follows:

(1) GSA action upon the initial request shall be completed within 60 days.

(2) Receipt of the request shall be acknowledged within 7 days.

(3) The designated service or staff office shall determine if the requested information may be declassified and shall make such information available to the requester, unless withholding it is otherwise warranted under applicable law. If the information may not be released in whole or in part, the requester shall be given a brief statement as to the reasons for denial, a notice of the right to appeal the determination to the Deputy Administrator (the notice shall include the Deputy Administrator's name, title, and address), and a notice that such an appeal must be filed with the Deputy Administrator within 60 days in order to be considered.

(f) *Foreign government information.* Except as provided hereinafter, requests for mandatory review for the declassification of classified documents that contain foreign government information shall be processed and acted upon in accordance with the provisions of paragraph (c) through (e) of this section. If the request involves information that was initially received or classified by GSA, then the corresponding service or staff office shall be designated by the GSA Security Officer to determine whether the foreign government information in the document may be declassified and released in accordance with GSA policy or guidelines, after consulting with other agencies that have subject matter interest as necessary. If GSA is not the agency that received or classified the foreign government information, it shall refer the request to the appropriate agency. In those cases where agency policy or guidelines do not apply, consultation with the foreign originator, through the GSA Security Officer, may be made prior to final action on the request.

(g) *Information classified outside the service or staff office.* When a service or staff office receives a request for declassification of information in a document which is in the custody of the service or staff office but was classified by another service or staff office or by another Government agency, the service or staff office shall refer the request to the classifying service or staff office or Government agency, together with a copy of the document containing the information requested when practicable, and shall notify the requester of the referral, unless the agency that classified the information objects on the grounds that its association with the information requires protection. When a GSA service or staff office receives such a referral, it shall process the request in accordance with the requirements of this paragraph and, if so requested, shall notify the referring service, staff office, or agency of the determination made on the request.

(h) *Action on appeal.* The following procedures shall be followed when denials of requests for declassification are appealed:

(1) The Deputy Administrator shall, within 15 days of the date of the appeal, convene a meeting of the GSA Information Security Oversight Committee (ISOC) that shall include the GSA Security Officer, or his or her representative, and the GSA official who denied the original request (and, at the option of that official, any subordinates or personnel from other agencies that participated in the decision for denial).

(2) The ISOC shall learn from the official the reasons for denying the request, concentrating in particular upon which requirement continued classification is based and the identifiable damage that would result if the information were declassified. The ISOC shall also learn from the official the part or parts of the information that is classified and if by deleting minor segments of the information it might not then be declassified.

(3) The ISOC's decision to uphold or deny the appeal, in whole or in part, shall be based upon the unanimous opinion of its membership. In the event that unanimity cannot be attained, the matter shall be referred to the Administrator, whose decision shall be final.

(4) Based upon the outcome of the appeal, a reply shall be made to the person making the appeal that either encloses the requested information or part of the information, or explains why the continued classification of the information is required. A copy of the reply shall be sent to the GSA official who originally denied the request for declassification, to the GSA Security Officer, and to any other agency expressing an interest in the decision.

(5) Final action on appeals shall be completed within 30 days of the date of the appeal.

(i) *Prohibition.* No service of staff office in possession of a classified document may refuse to confirm the existence of the document in response to a request for the document under the provisions for mandatory review, unless the fact of its existence would itself be classifiable.

(j) *Presidential papers.* Information less than 10 years old which was originated by the President, by the White House staff, or by committees or commissions appointed by the President, or by others acting on behalf of the President, is exempted from mandatory review for declassification. Such information 10 years old or older is subject to mandatory review for declassification in accordance with procedures developed by the Archivist of the United States which provide for consultation with GSA on matters of primary subject interest to this agency.

PART 105-63—PRESERVATION AND PROTECTION OF AND ACCESS TO THE PRESIDENTIAL HISTORICAL MATERIALS OF THE NIXON ADMINISTRATION

Sec.

105-63.000 Scope of part.

Subpart 105-63.1—General Provisions

105-63.101 Purpose.
105-63.102 Application.
105-63.103 Legal Custody.
105-63.104 Definitions.
105-63.105 Requests or demands for access.

Subpart 105-63.2—Preservation and Protection

105-63.201 Responsibility.
105-63.202 Security.
105-63.203 Archival processing.
105-63.204 Access procedures.
105-63.205 Extraordinary authority during emergencies.

Subpart 105-63.3—Access to materials by Former President Nixon, Federal Agencies, and for Use in Any Judicial Processing

105-63.301 Access by former President Nixon.
105-63.302 Access by Federal agencies.
105-63.303 Access for use in judicial proceedings.

Subpart 105-63.4—Access by the Public

105-63.400 Scope of subpart.
105-63.401 Processing period; notice of proposed opening.
105-63.401-1 Rights and privileges; right to a fair trial.
105-63.401-2 Segregation and review; Senior Archival Panel; Presidential Materials Review Board.
105-63.401-3 Transfer materials.
105-63.402 Restrictions.
105-63.402-1 Materials related to abuses of governmental power.
105-63.402-2 Materials of general historical significance unrelated to abuses of governmental power.
105-63.402-3 Periodic review of restrictions.
105-63.402-4 Appeal of restrictions.
105-63.402-5 Deletion of restricted portions.
105-63.402-6 Requests for declassification.
105-63.403 Reference room locations, hours, and rules.
105-63.404 Reproduction of tape recordings of Presidential conversations.
105-63.405 Reproduction and authentication of other materials.

Best Available Cop

Sec.
105-63.406 Amendment of regulations.
105-63.407 Freedom of Information requests.

AUTHORITY: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390; 40 U.S.C. 486(c); and Secs. 103 and 104 of the Presidential Recordings and Materials Preservation Act, 88 Stat. 1695; 44 U.S.C. 2107 note.

SOURCE: 42 FR 40858, Aug. 12, 1977, unless otherwise noted.

§ 105-63.000 Scope of part.

This part sets forth policies and procedures concerning the preservation and protection of and access to the tape recordings, papers, documents, memorandums, transcripts, and other objects and materials which constitute the Presidential historical materials of Richard M. Nixon, covering the period beginning January 20, 1969, and ending August 9, 1974.

Subpart 105-63.1—General Provisions

§ 105-63.101 Purpose.

This Part 105-63 implements the provisions of Title I of the Presidential Recordings and Materials Preservation Act (Pub. L. 93-526; 88 Stat. 1695). It prescribes policies and procedures by which the General Services Administration will preserve, protect, and provide access to the Presidential historical materials of the Nixon Administration.

§ 105-63.102 Application.

This Part 105-63 applies to all of the Presidential historical materials of the Nixon Administration in the custody of the Administrator of General Services pursuant to the provisions of Title I of the Presidential Recordings and Materials Preservation Act (Pub. L. 93-526; 88 Stat. 1695).

§ 105-63.103 Legal Custody.

The Administrator of General Services has or will obtain exclusive legal custody and control of all Presidential historical materials of the Nixon Administration held pursuant to the provisions of Title I of the Presidential Recordings and Materials Preservation Act (Pub. L. 93-526; 88 Stat. 1695).

§ 105-63.104 Definitions.

For the purposes of this Part 105-63, the following terms have the meaning ascribed to them in this § 105-63.104.

(a) *Presidential historical materials.* The term "Presidential historical materials" (also referred to as "historical materials" and "materials") shall mean all papers, correspondence, documents, pamphlets, books, photographs, films, motion pictures, sound and video recordings, machine-readable media, plats, maps, models, pictures, works of art, and other objects or materials made or received by former President Richard M. Nixon or by members of his staff in connection with his constitutional or statutory powers or duties as President and retained or appropriate for retention as evidence of or information about these powers or duties. Included in this definition are materials relating to the political activities of former President Nixon or members of his staff, but only when those activities directly relate to or have a direct effect upon the carrying out of constitutional or statutory powers or duties. Excluded from this definition are documentary materials of any type that are determined to be the official records of an agency of the Government; private or personal materials; stocks of publications, processed documents, and stationery; and extra copies of documents produced only for convenience of reference, when they are clearly so identified.

(b) *Private or personal materials.* The term "private or personal materials" shall mean those papers and other documentary or commemorative materials in any physical form relating solely to a person's family or other non-governmental activities, including private political associations, and having no connection with his constitutional or statutory powers or duties as President or as a member of the President's staff.

(c) *Abuses of governmental power popularly identified under the generic term "Watergate".* The term "abuses of governmental power popularly identified under the generic term 'Watergate'" (also referred to as "abuses of governmental power"), shall mean those alleged acts, whether or not corroborated by judicial, administrative or legislative proceedings, which allegedly were conducted, directed or approved by Richard M. Nixon, his staff or persons associated with him in his constitutional or statutory functions as President, or as political activities directly relating to or having a direct effect upon those functions, and which (1) were within the purview of the charters of the Senate Select Committee on Presidential Campaign Activities or the Watergate Special Prosecution Force; or (2) are circumscribed in the Articles of Impeachment adopted by the House Committee on the Judiciary and reported to the House of Representatives for consideration in House Report No. 93-1305.

(d) *General historical significance.* The term "general historical significance" shall mean having administrative, legal, research or other historical value as evidence of or information about the constitutional or statutory powers or duties of the President, which an archivist has determined is of a quality sufficient to warrant the retention by the United States of materials so designated.

(e) *Archivist.* The term "archivist" shall mean an employee of the General Services Administration who, by education or experience, is specially trained in archival science.

(f) *Agency.* The term "agency" shall mean an executive department, military department, independent regulatory or nonregulatory agency, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government, including the Executive Office of the President. For purposes of § 105-63.302 only, the term "agency" shall also include the White House Office.

(g) *Administrator.* The term "Administrator" shall mean the Administrator of the General Services, or his delegate as provided herein or by separate instrument.

(h) *Initial archival processing.* The term "initial archival processing" shall mean the following generic acts performed by archivist with respect to the Presidential historical materials: Shelving boxes of documents in chronological, alphabetical, numerical or other sequence; surveying and developing a location register and cross-index of the boxes; arranging materials; reboxing the documents and affixing labels; producing finding aids such as folder title lists, cross-indexes, and subject lists; reproducing and transcribing tape recordings; reviewing the materials to identify items that appear subject to restriction; identifying items in poor physical condition and assuring their preservation; and identifying materials requiring further processing.

(i) *Staff.* The term "staff" shall mean those persons whose salaries were paid fully or partially from appropriations to the White House Office or Domestic Council, or who were detailed on a nonreimbursable basis to the White House Office or Domestic Council from any other Federal activity; or those persons who were otherwise designated as assistants to the President, in connection with their service in that capacity; or any persons whose files were sent to the White House Central Files Unit or Special Files Unit, for purposes of those files.

(j) *National security classified information.* The term "national security classified information" shall mean any matter which is security classified under existing law, and has been or should be designated as such.

[45 FR 14856, Mar. 7, 1980]

§ 105-63.105 Requests or demands for access.

Each agency which receives a request or legal demand for access to Presidential historical materials of the Nixon Administration shall immediately forward the request or demand to the Administrator of General Services, General Services Administration (N), Washington, D.C. 20408.

Subpart 105-63.2—Preservation and Protection

§ 105-63.201 Responsibility.

The Administrator of General Services or his designated agent (hereinafter the Administrator) is responsible for the preservation and protection of the Presidential historical materials. He may arrange with other Federal agencies, acting pursuant to appropriate Federal authority, for assistance in their preservation and protection.

§ 105-63.202 Security.

The Administrator is responsible for providing adequate security for the Presidential historical materials.

§ 105-63.203 Archival processing.

When authorized by the Administrator and until the commencement of archival processing in accordance with Subpart 105-63.4, archivists may process the Presidential historical materials to the extent necessary for protecting and preserving the materials, and for providing authorized access to the materials pursuant to Subpart 105-63.3.

§ 105-63.204 Access procedures.

(a) The Administrator will receive and/or prepare appropriate documentation of each access authorized under this Part 105-63.

(b) Entry to the records storage areas will be provided by the Administrator only to archival, maintenance, security, or other necessary personnel or to Mr. Nixon. Two persons, at least one of whom represents the Administrator, will be present at all times that records storage areas are occupied.

(c) The Administrator will determine that each individual having access to the Presidential historical materials has a security clearance equivalent to the highest degree of national security classification that may be applicable to any of the materials examined.

(d) The Administrator will provide former President Nixon or his designated attorney or agent (hereinafter Mr. Nixon), prior notice of, and allow him to be present during, each search necessary to comply with an authorized access under §§ 105-63.302 or 105-63.303.

(e) Only GSA archivists shall conduct searches necessary to comply with authorized accesses under §§ 105-63.302 and 105-63.303.

(f) Prior to releasing Presidential historical materials in accordance with an access authorized under §§ 105-63.302 or 105-63.303, the Administrator will give Mr. Nixon notice of the nature and identity of, and at his request allow him access to, those Presidential historical materials which the archivists have determined are covered by the supena, or other lawful process, or request. The notice will also inform Mr. Nixon that he may file a claim with the Administrator objecting to the release of all or portions of the described materials within 5 workdays of his receiving the notice described herein. The claim should detail the alleged rights and privileges of Mr. Nixon which would be violated by the release of the materials. The Administrator will refrain from releasing any of the materials to the requester during this period, and while any claim of right or privilege is pending before him, will refrain from releasing the materials subject to the claim.

(g) The Administrator will notify Mr. Nixon in writing of the administrative determination on any claims filed in accordance with (f), above. In the event the determination is wholly or partially adverse to the claim, the Administrator will refrain from releasing the materials to the requester for an additional 5 workdays from Mr. Nixon's receipt of the determination.

(h) Whenever possible, a copy, which shall be certified upon request, instead of the original documentary Presidential historical materials shall be provided to comply with a subpena or other lawful process or request. Whenever the original documentary material is removed, a certified copy of the material shall be inserted in the proper file until the return of the original.

§ 105-63.205 Extraordinary authority during emergencies.

In the event of an emergency that threatens the physical preservation of the Presidential historical materials or their environs, the Administrator will take such steps as may be necessary, including removal of the materials to temporary locations outside the metropolitan area of the District of Columbia, to preserve and protect the materials.

Subpart 105-63.3—Access to Materials by Former President Nixon, Federal Agencies, and for Use in Any Judicial Proceeding

§ 105-63.301 Access by former President Nixon.

In accordance with the provisions of Subpart 105-63.2, former President Richard M. Nixon or his designated agent shall at all times have access to Presidential historical materials in the custody and control of the Administrator.

§ 105-63.302 Access by Federal agencies.

In accordance with the provisions of Subpart 105-63.2, any Federal agency or department in the executive branch shall have access for lawful Government use to the Presidential historical materials in the custody and control of the Administrator to the extent necessary for ongoing Government business. The Administrator will only consider written requests from heads or agencies or departments, deputy heads of agencies or departments, or heads of major organizational components or functions within agencies or departments.

[42 FR 54830, Oct. 11, 1977]

§ 105-63.303 Access for use in judicial proceedings.

In accordance with the provisions of Subpart 105-63.2, and subject to any rights, defenses, or privileges which the Federal Government or any person may invoke, the Presidential historical materials in the custody and control of the Administrator will be made available for use in any judicial proceeding and are subject to subpena or other lawful process.

Subpart 105-63.4—Access by the Public

Source: 45 FR 14857, Mar. 7, 1980, unless otherwise noted.

§ 105-63.400 Scope of the subpart.

This subpart sets forth policies and procedures concerning public access to the Presidential historical materials of Richard M. Nixon.

§ 105-63.401 Processing period; notice of proposed opening.

(a) The Administrator will commence the initial archival processing of the materials. In processing the materials, the archivists will give priority to segregating private or personal materials and transferring them to their proprietary or commemorative owner in accordance with § 105-63.401-3, below. As soon thereafter as possible, the Administrator will open for public access all of the materials in the Administrator's custody and control which are neither restricted pursuant to § 105-63.402 nor subject to outstanding claims or petitions seeking such restriction. The Administrator will open for public access each integral file segment of the materials upon completion of initial archival processing on that segment. Insofar as practicable, the Administrator will give priority in such initial archival processing to materials relating to abuses of governmental power as defined in § 105-63.104(c).

(b) At least 30 calendar days prior to the opening to public access of any integral file segment of the materials, the Administrator will publish notice in the Federal Register of the proposed opening. The notice will reasonably identify the material to be opened and will include a reference to the right of any interested person to file a claim or petition in accordance with § 105-63.401-1. Copies of the notice will be sent to the incumbent President of the United States or his designated agent and by first-class mail to the last known address of: Mr. Nixon, or his designated agent or heirs; any former staff member reasonably identifiable as the individual responsible for creating or maintaining the file segment proposed to be opened; any individual named in material which the Administrator may not restrict in accordance with § 105-63.402-1(b) because the material is essential to an understanding of an abuse of governmental power; and any persons named in the materials who are registered with the General Services Administration in accordance with § 105-63.401(c), below.

(c) The Administrator will maintain a registry which shall contain the names and mailing addresses of persons who wish to receive personal notice of the proposed opening of integral file segments of the materials when those segments contain references about them. To be included in the registry, a person must submit his/her name and mailing address to the General Services Administration (NLN), Washington, D.C. 20408. Both the envelope and letter should be prominently marked, "Nixon Materials Registry." By submitting his/her name for inclusion in the registry, a person agrees to reimburse the United States for the cost of first-class postage for each instance of personal notice received.

§ 105-63.401-1 Rights and privileges; right to a fair trial.

(a) Within 30 days following publication of the notice prescribed in § 105-63.401(b), any person claiming a legal or constitutional right or privilege which would prevent or limit public access to any of the materials shall notify the Administrator in writing of the claimed right or privilege and the specific materials to which it relates. Unless the claim states that particular materials are private or personal (see paragraph (d), below), the Administrator will notify the claimant by certified mail, return receipt requested, of his decision regarding public access to the pertinent materials. If that decision is adverse to the claimant, the Administrator will refrain from providing public access to the pertinent materials for at least 30 calendar days from receipt by the claimant of such notice.

(b) Within 30 days following publication of the notice prescribed in § 105-63.401(b), officers of any Federal, State, or local court and other persons who believe that public access to any of the materials may jeopardize an individual's right to a fair and impartial trial should petition the Administrator setting forth the relevant circumstances that warrant witholding specified materials. The Administrator will notify the petitioner by certified mail, return receipt requested, of his decision regarding public access to the pertinent materials. If that decision is adverse to the petitioner, the Administrator will refrain from providing public access to the pertinent materials for at least 30 calendar days from receipt by the petitioner of such notice.

(c) In reaching decisions required by paragraphs (a) and (b) of this section, the Administrator may consult with other appropriate Federal agencies. If these consultations require the transfer of copies of the materials to Federal officials in agencies other than the General Services Administration, the Administrator will transfer these copies in accordance with the procedures prescribed in §§ 105-63.204 and 105-63.302.

(d) Within 30 days following publication of the notice prescribed in § 105-63.401(b), any person claiming that materials proposed for public access are in fact private or personal, as defined in § 105-63.104(b), and that he or she is the proprietary or commemorative owner of those materials shall notify the Administrator in writing. The claim shall describe the specific materials to which it refers, and the claimant's basis for concluding that these materials are private or personal. Upon receipt of such a claim, the Administrator will transmit it to the Presidential Materials Review Board for its consideration and determination in accordance with § 105-63.401-2(i). The Administrator will refrain from providing public access to the pertinent materials or from returning them to the claimant for at least 30 calendar days from receipt by the claimant or any intervening parties of the Board's determination.

§ 105-63.401-2 Segregation and review; Senior Archival Panel; Presidential Materials Review Board.

(a) During the processing period described in § 105-63.401(a), the Administrator will assign archivists to segregate private or personal materials, as defined in § 105-63.104(b). The archivists shall have sole responsibility for the initial review and determination of private or personal materials. At all times when the archivists or other authorized officials have access to the materials in accordance with these regulations, they shall take all reasonable steps to minimize the degree of intrusion into private or personal materials. Except as provided in these regulations, the archivists or other authorized officials shall not disclose to any person private or personal or otherwise restricted information learned as a result of their activities under these regulations.

(b) During the processing period described in § 105-63.401(a), the Administrator will assign archivists to segregate materials neither relating to abuses of governmental power, as defined in § 105-63.104(c), nor otherwise having general historical significance, as defined in § 105-63.104(d). The archivists shall have sole responsibility for the initial review and determination of those materials which are not related to abuses of governmental power and do not otherwise have general historical significance.

(c) During the processing period described in § 105-63.401(a), the Administrator will assign archivists to segregate materials subject to restriction, as prescribed in § 105-63.402. The archivists shall have sole responsibility for the initial review and determination of materials that should be restricted. The archivists shall insert a notification of withdrawal at the front of the file folder or container affected by the removal of restricted material. The notification shall include a brief description of the restricted material and the basis for the restriction as prescribed in § 105-63.402.

(d) If the archivists are unable to make a determination required in paragraphs (a), (b), or (c) of this section, or if the archivists conclude that the required determination raises significant issues involving interpretation of these regulations or will have far-reaching precedential value, the archivists shall submit the pertinent materials, or representative examples of them, to a panel of senior archivists selected by the Archivist of the United States. The Panel shall then have the sole responsibility for the initial determination required in paragraphs (a), (b), or (c) of this section.

(e) If the Senior Archival Panel is unable to make a determination required in paragraph (d) of this section, or if the panel concludes that the required determination raises significant issues involving interpretation of these regulations or will have far-reaching precedential value, the Panel shall certify the matter and submit the pertinent materials, or representative examples of them, to the Presidential Materials Review Board.

(f) The Presidential Materials Review Board ("Board") shall consist of the Archivist of the United States, who shall serve as Chairman, and the following additional members:

(1) The Assistant Archivist for the Office of the National Archives;

(2) The Assistant Archivist for the Office of the Presidential Libraries;

(3) The General Counsel of the General Services Administration; and

(4) A person, distinguished in archival science, history or political science, who shall not otherwise be a Federal employee or official, nominated by the Council of the Society of American Archivists.

The Board shall meet at the call of the Chairman. Three members of the Board shall constitute a quorum for the conduct of the Board's business, although each member of the Board may participate in all of the Board's decisions. Members of the Board may be represented by their delegates on those occasions when they are unable to attend the meetings of the Board. The Board may consult with officials of interested Federal agencies in formulating its decisions. To the extent these consultations require the transfer of copies of materials to Federal officials outside the General Services Administration, the Board shall comply with the requirements of §§ 105-63.204 and 105-63.302.

(g) When the matter certified to the Board by the Senior Archival Panel involves a determination required in paragraphs (a) or (b) of this section, the Board shall prepare a final written decision, together with dissenting and concurring opinions, of the proper categorization and disposition of the pertinent materials. The Board's decision will be the final administrative determination.

(h) When the matter certified to the Board by the Senior Archival Panel involves a determination required in paragraph (c) of this section, the Board shall recommend an initial determination to the Senior Archival Panel, which shall retain the sole responsibility for the initial determination.

(i) When the Board considers a matter referred to it by the Administrator as provided in § 105-63.401-1(d), it shall follow these procedures:

(1) The Board will notify the claimant of its consideration of the claim, and invite the claimant to supplement at his discretion the basis for the claim.

(2) The Board will publish notice in the FEDERAL REGISTER, advising the public of its consideration of the claim, and describing the materials in question as fully as reasonably possible without disclosing arguably private or personal information. The notice will further advise that any member of the public may petition the Board within 15 calendar days of the publication of notice, setting forth the intervenor's views concerning the public or private nature of the materials.

(3) The Board shall take into account the positions maintained by the claimant and any intervenors in reaching its decision. The Board shall issue its decision, including dissenting and concurring opinions, no sooner than 20 days nor later than 60 days from the publication of notice in the FEDERAL REGISTER provided in paragraph (h)(2), of this section. The Board's decision shall be the final administrative determination. The Administrator will notify the claimant and any intervenors of the Board's decision by certified mail, return receipt requested, and shall refrain from acting upon that decision for 30 calendar days as provided in § 105-63.401-1(d).

§ 105-63.401-3 Transfer of materials.

(a) The Administrator will transfer sole custody and use of those materials determined to be private or personal, or to be neither related to abuses of governmental power nor otherwise of general historical significance, to former President Nixon or his heirs or, when appropriate and after notifying Mr. Nixon or his designated agent, to the former staff member having primary proprietary or commemorative interest in the materials.

(b) Materials determined to be neither related to abuses of governmental power nor otherwise of general historical significance, and transferred pursuant to paragraph (a) of this section, shall upon such transfer no longer be deemed Presidential historical materials as defined in § 105-63.104(a).

§ 105-63.402 Restrictions.

§ 105-63.402-1 Materials related to abuses of governmental power.

(a) The Administrator will restrict access to materials determined during the processing period to relate to abuses of govermental power, as defined in § 105-63.104(c), when:

(1) The Administrator, in accordance with § 105-63.401-1, is in the process of reviewing or has determined the validity of a claim by any person of a legal or constitutional right or privilege; or

(2) The Administrator, in accordance with § 105-63.401-1, is in the process of reviewing or has determined the validity of a petition by any person of the need to protect an individual's right to a fair and impartial trial; or

(3) The release of the materials would violate a Federal statute; or

(4) The materials are authorized under criteria established by Executive order to be kept secret in the interest of national defense or foreign policy, provided that any question as to whether materials are in fact properly classified or are properly subject to classification shall be resolved in accordance with the applicable Executive order or as otherwise provided by law. However, the Administrator may waive this restriction when:

(i)(A) The requester is engaged in a historical research project; or (B) the requester is a former Federal official who had been appointed by the President to a policymaking position and who seeks access only to those classified materials which he originated, reviewed, signed or received while in public office; and

(ii) The requester has a security clearance equivalent to the highest degree of national security classification that may be applicable to any of the materials to be examined; and

(iii) The Administrator has determined that the heads of agencies having subject matter interest in the material do not object to the granting of access to the materials; and

(iv) The requester has signed a statement, which declares that the requester will not publish, disclose, or otherwise compromise the classified material to be examined and that the requester has been made aware of Federal criminal statutes which prohibit the compromise or disclosure of this information.

(b) The Administrator will restrict access to any portion of materials determined to relate to abuses of governmental power when the release of those portions would constitute a clearly unwarranted invasion of personal privacy or constitute libel of a living person: *Provided*, That if material related to an abuse of governmental power refers to, involves or incorporates such personal information, the Administrator will make available such personal information, or portions thereof, if such personal information, or portions thereof, is essential to an understanding of the abuses of governmental power.

§ 105-63.402-2 Materials of general historical significance unrelated to abuses of governmental power.

(a) The Administrator will restrict access to materials determined during the processing period to be of general historical significance, but not related to abuses of governmental power, under one or more of the circumstances specified in § 105-63.402-1(a).

(b) The Administrator will restrict access to materials of general historical significance, but not related to abuses of governmental power, when the release of these materials would:

(1) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential; or

(2) Constitute a clearly unwarranted invasion of personal privacy or constitute libel of a living person; or

(3) Disclose investigatory materials compiled for law enforcement purposes, but only when the disclosure of such records would:

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source, and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(v) Disclose investigative techniques and procedures, or;

(vi) Endanger the life or physical safety of law enforcement personnel.

§ 105-63.402-3 Periodic review of restrictions.

The Administrator periodically will assign archivists to review materials placed under restriction by § 105-63.402 and to make available for public access those materials which, with the passage of time or other circumstances, no longer require restriction. If the archivists are unable to determine whether certain materials should remain restricted, the archivists shall submit the pertinent materials, or representative examples of them, to the Senior Archival Panel described in § 105-63.401-2(d), which shall then have the responsibility for determining if the materials should remain restricted. The Senior Archival Panel may seek the recommendations of the Presidential Materials Review Board, in the manner prescribed in paragraphs (e) and (h) of § 105-63.401-2, in making its determination. Before opening previously restricted materials, the Administrator will comply with the notice requirements of § 105-63.401(b).

§ 105-63.402-4 Appeal of restrictions.

Upon petition of any researcher who claims in writing to the Administrator that the restriction of specified materials is inappropriate and should be removed, the archivists shall submit the pertinent materials, or representative examples of them, to the Presidential Materials Review Board described in

§ 105-63.401-2(f). The Board shall review the restricted materials, and consult with interested Federal agencies as necessary. To the extent these consultations require the transfer of copies of materials to Federal officials outside the General Services Administration, the Board shall comply with the requirements of §§ 105-63.204 and 105-63.302. As necessary and practicable, the Board shall also seek the views of any person, including former President Nixon, whose rights or privileges might be adversely affected by a decision to open the materials. The Board shall prepare a final written decision, including dissenting and concurring opinions, as to the continued restriction of all or part of the pertinent materials. The Board's decision shall be the final administrative determination. The Administrator will notify the petitioner and other interested persons of the final administrative determination within 60 calendar days following receipt of such petition. If the Board's decision is to open previously restricted materials, the Administrator will comply with the notice requirements of § 105-63.401(b).

§ 105-63.402-5 Deletion of restricted portions.

The Administrator will provide a requester any reasonably segregable portions of otherwise restricted materials after the deletion of the portions which are restricted under this § 105-63.402.

§ 105-63.402-6 Requests for declassification.

Challenges to the classification and requests for the declassification of national security classified materials shall be governed by the provisions of § 105-61.104, as that may be amended from time to time.

§ 105-63.403 Reference room locations, hours, and rules.

The Administrator shall, from time to time, separately prescribe the precise location or locations where the materials shall be available for public reference, and the hours of operation and rules governing the conduct of researchers using such facilities. This information may be obtained by writing to: Office of Presidential Libraries (NL), The National Archives, Washington, D.C. 20408.

§ 105-63.404 Reproduction of tape recordings of Presidential conversations.

(a) To ensure the preservation of original tape recordings of conversations which were recorded or caused to be recorded by any officer or employee of the Federal Government and which;

(1) Involve former President Richard M. Nixon or other individuals who, at the time of the conversation, were employed by the Federal Government; and

(2) Were recorded in the White House or in the office of the President in the Executive Office Buildings located in Washington, District of Columbia; Camp David, Md.; Key Biscayne, Fla.; or San Clemente, Calif.; and

(3) Were recorded during the period beginning January 20, 1969, and ending August 9, 1974,

the Administrator will produce duplicate copies of such tape recordings in his custody for public and official reference use. The original tape recordings shall not be available for public access.

(b) Since the original tape recordings may contain information which is subject to restriction in accordance with § 105-63.402, the archivists shall review the tapes and delete restricted portions from copies for public and official reference use.

(c) Researchers may listen to reference copies of the tape recordings described in paragraph (a) of this section in the National Archives Building in Washington, D.C. and at other reference locations established by the Administrator in accordance with § 105-63.403.

§ 105-63.405 Reproduction and authentication of other materials.

(a) The copying for researchers of materials other than tape recordings described in § 105-63.404 normally will be done by personnel of the General Services Administration using Government equipment. With the permission of the Administrator or his designated agent, a researcher may use his own copying equipment. Permission shall be based on the determination that such use will not harm the materials or disrupt reference activities. Equipment shall be used under the supervision of GSA personnel.

(b) The Administrator may authenticate and attest copies of materials when necessary for the purpose of the research.

(c) The fees for reproduction and authentication of materials under this section shall be those prescribed in the schedule set forth in Subpart 105-61.52 or pertinent successor regulation, as that schedule is amended from time to time.

§ 105-63.406 Amendment of regulations.

The Administrator may from time to time amend the regulations of this Subpart 105-63.4 in accordance with the applicable law concerning such amendments.

§ 105-63.407 Freedom of Information requests.

(a) The Administrator will process Freedom of Information Act requests for access to only those materials within the Presidential historical materials which are identifiable by an archivist as records of an agency as defined in § 105-63.104(f). The Administrator will process these requests in accordance with the Freedom of Information regulations set forth in Part 105-61, or pertinent successor regulations.

(b) In order to allow GSA archivists to devote as much time and effort as possible to the processing of materials for general public access, the Administrator will not process those Freedom of Information requests where the requester can reasonably obtain the same materials through a request directed to an agency (as defined in § 105-63.104(f)), unless the requester demonstrates that he or she has unsuccessfully sought access from that agency or its successor in law or function.

PART 105-64—REGULATIONS IMPLEMENTING THE PRIVACY ACT OF 1974

Sec.

105-64.000 Scope of part.
105-64.001 Purpose.
105-64.002 Definitions.

Subpart 105-64.1—General Policy

105-64.101 Maintenance of records.
105-64.101-1 Collection and use.
105-64.101-2 Standards of accuracy.
105-64.101-3 Rules of conduct.
105-64.101-4 Safeguarding systems of records.
105-64.101-5 Inconsistent issuances of GSA superseded.
105-64.102 Records of other agencies.
105-64.103 Subpoena and other legal demands.

Subpart 105-64.2—Disclosure of Records

105-64.201 Conditions of disclosure.
105-64.201a Procedures for disclosure.
105-64.202 Accounting of disclosures.

Subpart 105-64.3—Individual Access to Records

105-64.301 Access procedures.
105-64.301-1 Form of requests.
105-64.301-2 Special requirements for medical records.
105-64.301-3 Granting access.
105-64.301-4 Denials of access.
105-64.301-5 Appeal of denial of access within GSA.
105-64.302 Fees.
105-64.302-1 Records available at a fee.
105-64.302-2 Additional copies.
105-64.302-3 Waiver of fee.
105-64.302-4 Prepayment of fees over $25.
105-64.302-5 Form of payment.
105-64.302-6 Reproduction fee schedule.

Subpart 105-64.4—Requests To Amend Records

Sec.

105-64.401 Submission of requests to amend records.
105-64.402 Review of requests to amend records.
105-64.403 Approval of requests to amend.
105-64.404 Denial of requests to amend.
105-64.405 Agreement to alternative amendments.
105-64.406 Appeal of denial of request to amend a record.
105-64.407 Statements of disagreement.
105-64.408 Judicial review.

Subpart 105-64.5—Report on New Systems and Alteration of Exisitng Systems

105-64.501 Reporting requirement.
105-64.502 FEDERAL REGISTER notice of establishment of new system or alteration of exisitng system.
105-64.503 Effective date of new systems of records or alteration of an existing system of records.

Subpart 105-64.6—Exemptions

105-64.601 General exemptions.
105-64.602 Specific exemptions.

Subpart 105-64.7—Assistance and Referrals

105-64.701 Requests for assistance and referral.

AUTHORITY: Sec. 205(c) Federal Property and Administrative Services Act of 1949, as amended (63 Stat. 390 (40 U.S.C. 486(c)); Privacy Act of 1974 (88 Stat. 1899 (5 U.S.C. 552a)), unless otherwise noted.

SOURCE: 40 FR 52800, Nov. 12, 1975, unless otherwise noted.

§ 105-64.000 Scope of part.

This part sets forth policies and procedures concerning the collection, use, and dissemination of records maintained by GSA which are subject to the provisions of 5 U.S.C. 552a. These policies and procedures govern only those records as defined in § 105-64.002. Policies and procedures governing the disclosure and availability of records in general are in Parts 105-60 and 61 of this chapter. This part also covers exemptions from disclosure of personal information; procedures for the guidance of subject individuals in obtaining information and inspecting and disagreeing with the content of records; accounting for disclosures of information; special requirements for medical records; and fees.

§ 105-64.001 Purpose.

This part implements the provisions of 5 U.S.C. 552a (Pub. L. 93-579), popularly known as the "Privacy Act of 1974" (hereinafter referred to as the Act). This part prescribes procedures for notifying an individual of a GSA system of records containing a record pertaining to him, procedures for gaining access and contesting the contents of records, and other procedures for carrying out the provisions of the Act.

§ 105-64.002 Definitions.

For the purposes of this Part 105-64:

(a) The term "agency" means agency as defined in 5 U.S.C. 552(e);

(b) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(c) The term "maintain" includes maintain, collect, use, and disseminate;

(d) The term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name or an identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint, voiceprint, or photograph;

(e) The term "system of records" means a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifiers assigned to that individual;

(f) The term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of Title 13 U.S.C.;

(g) The term "routine use" means, with respect to the disclosure of a record, the use of that record for a purpose which is compatible with the purpose for which it was collected; and

(h) The term "system manager" means the employee of GSA who is responsible for the maintenance of a system of records and for the collection, use, and dissemination of information therein.

(i) The term "subject individual" means the individual named or discussed in a record or the individual to whom a record otherwise pertains.

(j) The term "disclosure" means a transfer of a record, a copy of a record, or the information contained in a record to a recipient other than the subject individual, or the review of a record by someone other than the subject individual.

(k) The term "access" means a transfer of a record, a copy of a record, or the information in a record to the subject individual, or the review of a record by the subject individual.

(l) The term "solicitation" means a request by an officer or employee of GSA that an individual provide information about himself.

[40 FR 52800, Nov. 12, 1975, as amended at 41 FR 42954, Sept. 29, 1976]

Subpart 105-64.1—General Policy

§ 105-64.101 Maintenance of records.

§ 105-64.101-1 Collection and use.

(a) *General.* Any information used in whole or in part in making a determination about an individual's rights, benefits, or privileges under GSA programs will be collected directly from the subject individual to the extent practicable. The system manager also shall ensure that information collected is used only in conformance with the provisions of the act and these regulations.

(b) *Solicitation of information.* System managers shall ensure that at the time information is solicited the solicited individual is informed of the authority for collecting that information, whether providing the information is mandatory or voluntary, the purposes for which the information will be used, the routine uses of the information, and the effects on the individual, if any, of not providing the information. Heads of Services and Staff Offices and Regional Administrators shall ensure that forms used to solicit information are in compliance with the act and these regulations.

(c) *Solicitation of social security number.* Before an officer or employee of GSA requests an individual to disclose his social security number, the officer or employee of GSA shall ensure that either;

(1) The disclosure is required by Federal statute, or;

(2) The disclosure of a social security number was required under statute or regulation adopted before January 1, 1975, to verify the identity of an individual, and the social security number will become a part of a system of records in existence and operating before January 1, 1975.

If solicitation of the social security number is authorized under paragraph (c)(1) or (2) of this section, the GSA officer or employee who requests an individual to disclose his social security account number shall first inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and the uses that will be made of it.

(d) *Soliciting information from third parties.* An officer or employee of GSA shall inform third parties who are requested to provide information about another individual of the purposes for which the information will be used.

[41 FR 42954, Sept. 29, 1976]

§ 105-64.101-2 Standards of accuracy.

The system manager shall ensure that all records which are used by the agency to make determinations about any individual are maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual.

§ 105-64.101-3 Rules of conduct.

Any officer or employee of GSA involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, shall review the provisions of 5 U.S.C. 552a and the regulations in this part, and shall conduct himself in accordance with the rules of conduct concerning the protection of personal information in 41 CFR Part 105-735, Standards of Conduct.

§ 105-64.101-4 Safeguarding systems of records.

The system manager shall ensure that appropriate administrative, technical, and physical safeguards are established to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained. Personnel information contained in both manual and automated systems of records shall be protected by implementing the following safeguards:

(a) Official personnel folders, authorized personnel operating or work folders, and other records of personnel actions effected during an employee's Federal service or affecting the employee's status and service, including information on experience, education, training, special qualifications and skills, performance appraisals, and conduct, shall be stored in a lockable metal filing cabinet when not in use by an authorized person. A system manager may employ an alternative storage system providing that it furnishes an equivalent degree of physical security as storage in a lockable metal filing cabinet.

(b) The system manager, at his discretion, may designate additional records of unusual sensitivity which require safeguards similar to those described in paragraph (a) of this section.

(c) A system manager shall permit access to and use of automated or manual personnel records only to persons whose official duties require such access, or to a subject individual or his representative as provided by this part.

[40 FR 52800, Nov. 12, 1975, as amended at 41 FR 42955, Sept. 29, 1976]

§ 105-64.101-5 Inconsistent issuances of GSA superseded.

Any policies and procedures in any GSA issuance which are inconsistent with the policies and procedures in this Part 105-64 are superseded to the extent of that inconsistency.

§ 105-64.102 Records of other agencies.

(a) *Other agencies' records managed and administered by GSA.* Rules governing the maintenance of systems of records of agencies other than GSA which are located in the National Archives of the United States and Federal Records Centers are in Part 105-61 (Public use of records, donated historical materials, and facilities in the National Archives and Records Service).

(b) *Current records of other agencies.* If GSA receives a request for access to records which are the primary responsibility of another agency, but which are maintained by or in the temporary possession of GSA on behalf of that agency, GSA will refer the request to the agency concerned for appropriate action. GSA will advise the requester that the request has been forwarded to the responsible agency. Records in the custody of GSA which are the primary responsibility of the U.S. Civil Service Commission are governed by the rules of the Commission promulgated pursuant to the Privacy Act.

§ 105-64.103 Subpoena and other legal demands.

Access to systems of records by subpoena or other legal process shall be in accordance with the provisions of Subpart 105-60.6 of this chapter.

Subpart 105-64.2—Disclosure of Records

§ 105-64.201 Conditions of disclosure.

No official or employee of GSA shall disclose any record to any person or to another agency without the express written consent of the subject individual unless the disclosure is:

(a) To officers or employees of GSA who have a need for the information in the official performance of their duties;

(b) Required by the provisions of the Freedom of Information Act;

(c) For a routine use as published in the annual notice in the FEDERAL REGISTER;

(d) To the Bureau of the Census for uses pursuant to Title 13, United States Code;

(e) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record. (The record shall be transferred in a form that is not individually identifiable. The written statement should include as a minimum:

(1) A statement of the purpose for requesting the records; and

(2) Certification that the records will be used only for statistical purposes.

These written statements should be maintained as records. In addition to deleting personal identifying information from records released for statistical purposes, the system manager shall ensure that the identity of the individual cannot reasonably be deduced by combining various statistical records.);

(f) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(g) To another agency or instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity, if the activity is authorized by law, and if the head of the agency or instrumentality or his designated representative has made a written request to the General Services Administration specifying the particular portion desired and the law enforcement activity for which the record is sought;

(h) To a person showing compelling circumstances affecting the health and safety of an individual, not necessarily the individual to whom the record pertains (Upon such disclosure, a notification must be sent to the last known address of the subject individual.);

(i) To either House of Congress or to a subcommittee or committee (joint or of either House, to the extent that the subject matter falls within their jurisdiction);

(j) To the Comptroller General or any of his authorized representatives in the course of the performance of the duties of the General Accounting Office; or

(k) Pursuant to the order of a court of competent jurisdiction.

[40 FR 52800, Nov. 12, 1975, as amended at 41 FR 42955, Sept. 29, 1976]

§ 105-64.201a Procedures for disclosure.

(a) Upon receipt of a request for disclosure, the system manager shall verify the right of the requester to obtain disclosure pursuant to § 105-64.201. Upon that verification, the system manager shall make the requested records available.

(b) If the system manager determines that the disclosure is not permitted under the provisions of § 105-64.201, he shall deny the request in writing and shall inform the requester of his right to submit his request for review and final determination to the Director of Administration, General Services Administration.

[41 FR 42955, Sept. 29, 1976]

§ 105-64.202 Accounting of disclosures.

(a) Except for disclosures made pursuant to § 105-64.201 (a) and (b), an accurate accounting of each disclosure shall be made and retained for 5 years after the disclosure or for the life of the record, whichever is longer. The accounting shall include the date, nature, and purpose of each disclosure, and the name and address of the person or agency to whom the disclosure is made.

(b) The system manager also shall maintain in conjunction with the accounting of disclosures:

(1) A full statement of the justification for the disclosure;

(2) All documentation surrounding disclosure of a record for statistical or law enforcement purposes; and

(3) Evidence of written consent to a disclosure given by the subject individual.

(c) Except for the accounting of disclosures made to agencies or instrumentalities in law enforcement activities in accordance with § 105-64.201(g) or of disclosures made from exempt systems (see Subpart 105-64.6), the accounting of disclosures shall be made available to the individual upon request. Procedures for requesting access to the accounting are in Subpart 105-64.3 of this part.

Subpart 105-64.3—Individual Access to Records

§ 105-64.301 Access procedures.

§ 105-64.301-1 Form of requests.

(a) An individual who seeks access to his record or to any information pertaining to him which is contained in a system of records should notify the system manager or applicable individual at the address indicated in the FEDERAL REGISTER notice describing the pertinent system of records.

(b) The request shall be in writing and shall bear the legend "Privacy Act Request" both on the request letter and on the envelope. The request letter should contain the complete name and identifying number of the system as published in the FEDERAL REGISTER; the full name and address of the subject individual; a brief description of the nature, time, place, and circumstances of the individual's association with GSA; and any other information which the individual believes would help the system manager to determine whether the information about the individual is included in the system of records. The system manager or applicable individual shall answer or acknowledge the request within 10 workdays of its receipt by GSA.

(c) The system manager at his discretion, may accept oral requests for access subject to verification of identity.

[40 FR 52800, Nov. 12, 1975, as amended at 41 FR 42955, Sept. 29, 1976]

§ 105-64.301-2 Special requirements for medical records.

(a) A system manager who receives a request from an individual for access to those official medical records which belong to the U.S. Civil Service Commission and are described in Chapter 339, Federal Personnel Manual (medical records about entrance qualification or fitness for duty, or medical records which are otherwise filed in the Official Personnel Folder), shall refer the pertinent system of records to a Federal Medical Officer for review and determination in accordance with this section. If no Federal Medical Officer is available to make the determination required by this section, the system manager shall refer the request and the medical reports concerned to the U.S. Civil Service Commission for determination.

(b) If, in the opinion of a Federal Medical Officer, medical records requested by the subject individual indicate a condition about which a prudent physician would hesitate to inform a person suffering from such a condition of its exact nature and probable outcome, the system manager shall not release the medical information to the subject individual nor to any person other than a physician designated in writing by the subject individual, his guardian, or conservator.

(c) If, in the opinion of a Federal medical officer, the medical information does not indicate the presence of any condition which would cause a prudent physician to hesitate to inform a person suffering from such a condition of its exact nature and probable outcome, the system manager shall release it to the subject individual or to any person, firm, or organization which the individual authorizes in writing to receive it.

[40 FR 52800, Nov. 12, 1975, as amended at 41 FR 42955, Sept. 29, 1976]

§ 105-64.301-3 Granting access.

(a) Upon receipt of a request for access to non-exempt records, the system manager shall make these records available to the subject individual or shall acknowledge the request within 10 workdays of its receipt by GSA. The acknowledgment shall indicate when the system manager will make the records available.

(b) If the system manager anticipates more than a 10 day delay in making a record available, he also shall include in the acknowledgment specific reasons for the delay.

(c) If a subject individual's request for access does not contain sufficient information to permit the system manager to locate the records, the system manager shall request additional information from the individual and shall have 10 workdays following receipt of the additional information in which to make the records available or to acknowledge receipt of the request and indicate when the records will be available.

(d) Records will be available for authorized access during normal business hours at the offices where the records are located. A requester should be prepared to identify himself by signature; i.e., to note by signature the date of access and/or to produce other identification verifying the signature.

(e) Upon request, a system manager shall permit an individual to examine the original of a non-exempt record, shall provide the individual with a copy of the record, or both. Fees shall be charged only for copies requested by the individual and not for copies provided to the individual for the convenience of the agency.

(f) An individual may request to pick up a record in person or to receive it by mail, directed to the name and address provided by the individual in his request. A system manager shall not make a record available to a third party for delivery to the subject individual, except for medical records as outlined in § 105-64.301-2.

(g) An individual who wishes to have a person of his choosing review, accompany him in reviewing, or obtain a copy of a record must, prior to the disclosure, sign a statement authorizing the disclosure of his record. The system manager shall maintain this statement with the record.

(h) [Reserved]

(i) The procedure for access to an accounting of disclosures is identical to the procedure for access to a record as set forth in this section.

[40 FR 52800, Nov. 12, 1975, as amended at 41 FR 42955, Sept. 29, 1976]

§ 105-64.301-4 Denials of access.

(a) A system manager may deny an individual access to his record only on the grounds that GSA has published rules in the FEDERAL REGISTER exempting the pertinent system of records from the access requirement. These systems of records are described in Subpart 105-64.6.

(b) Upon receipt of a request for access to a record which the system manager believes is contained within an exempt system of records, he shall forward the request to the appropriate official listed below through normal supervisory channels:

(1) Central Office:

The Administrator.
The Deputy Administrator.
The Assistant Administrator.
The Associate Administrator for Federal Management Policy.
Director of Civil Rights.
Chairman, GSA Board of Contract Appeals.
Director of Audits.
Special Assistant to the Administrator for Stockpile Disposal.
Special Assistant to the Administrator for Coordination of John F. Kennedy Library.
Special Assistant to the Administrator for Presidential Materials.
Director, Federal Preparedness Agency.
Assistant Administrator for Administration.
General Counsel.
Commissioner, Public Buildings Service.
Commissioner, Federal Supply Service.
Commissioner, Automated Data and Telecommunications Service.
Archivist of the United States.

(2) Regional offices: Regional Administrator.

The system manager shall append to the request an explanation of his determination that the requested record is contained within an exempt system of records and a recommendation that the request be denied or granted.

(c) In the event that the system manager serves in one of the positions listed in paragraph (b) of this section, he shall retain the responsibility for denying or granting the request.

(d) The appropriate official listed in paragraph (b) of this section shall, in consultation with legal counsel and such other officials as he deems appropriate, determine if the requested record is in fact contained within an exempt system of records and:

(1) If the record is not contained within an exempt system of records, he shall notify the system manager to grant the request in accordance with § 105-64.301-3; or

(2) If the record is contained within an exempt system, he shall:

(i) Notify the requester that the request is denied, including a statement justifying the denial and advising the requester of his right to judicial review of that decision as provided in § 105-64.408; or

(ii) Notify the system manager to make the record available to the requester in accordance with § 105-64.-301-3, notwithstanding the record's inclusion within an exempt system.

(e) The appropriate official listed in paragraph (b) of this section shall provide the Director of Information with a copy of any denial of a requested access.

[40 FR 52800, Nov. 12, 1975, as amended at 41 FR 42955, Sept. 29, 1976]

§ 105-64.301-5 Appeal of denial of access within GSA.

(a) A requester denied access, in whole or in part, to records pertaining to him, exclusive of those records for which the system manager is the Administrator, may file an administrative appeal of that denial. All appeals should be addressed to the Director of Information (AVI), General Services Administration, Washington, DC 20405, regardless whether the denial being appealed was made by a Central Office or a regional official.

(b) Each appeal to the GSA Director of Information shall be in writing. The appeal should bear the legend "Privacy Act—Access Appeal," on both the face of the letter and the envelope.

(c) Upon receipt of an appeal, the Director of Information shall consult with the system manager, the official who made the denial, legal counsel, and such other officials as may be appropriate. If the Director of Information, in consultation with these officials, determines that the request for access should be granted because the subject records are not exempt, he shall immediately either instruct the system manager in writing to grant access to the record in accordance with § 105-64.301-3, or shall grant access himself, and shall notify the requester of that action.

(d) If the Director of Information, in consultation with the officials specified in paragraph (c) of this section, determines that the appeal should be rejected, he shall submit the file on the request and appeal, including his findings and recommendations, to the Deputy Administrator for a final administrative determination.

(e) If the Deputy Administrator determines that access to the record should be granted, he shall immediately instruct the system manager in writing to grant access to the record in accordance with § 105-64.301-3. The Deputy Administrator shall send a copy of his instructions to the Director of Information, who shall notify the requester of that action.

(f) If the Deputy Administrator determines to reject the appeal, he immediately shall notify the requester in writing of that determination. This action shall constitute the final administrative determination on the request for access to the record and shall include:

(1) The reasons for the rejection of the appeal; and

(2) Notice of the requester's right to seek judicial review of the final administrative determination, as provided in § 105-64.408.

(g) The final agency determination will be made no later than 30 workdays from the date on which the appeal is received by the Director of Information. The Deputy Administrator may extend this time limit by notifying the requester in writing before the expiration of the 30 workdays. The Deputy Administrator's notification shall include an explanation for the extension.

[41 FR 42955, Sept. 29, 1976]

§ 105-64.302 Fees.

§ 105-64.302-1 Records available at a fee.

The system manager shall provide one copy of a record to a requester at a fee prescribed in § 105-64.302-6.

§ 105-64.302-2 Additional copies.

A reasonable number of additional copies shall be provided for the applicable fee to a requester who indicates that he has no access to commercial reproduction services.

§ 105-64.302-3 Waiver of fee.

The system manager shall make one copy of a record, up to 50 pages, available without charge to a requester who is an employee of GSA. The system manager may waive the fee requirement for any requester if the cost of collecting the fee is an unduly large part of or greater than the fee, or when furnishing the record without charge conforms to generally established business custom or is in the public interest.

[44 FR 23836, Apr. 23, 1979]

§ 105-64.302-4 Prepayment of fees over $25.

If the system manager determines that the anticipated total fee is likely to exceed $25, he shall notify the individual that he must prepay the anticipated fee prior to GSA's making the records available. GSA will remit the excess paid by the individual or bill the individual for an additional amount if there is a variation between the final fee charged and the amount prepaid.

§ 105-64.302-5 Form of payment.

Payment shall be by check or money order payable to the General Services Administration and shall be addressed to the system manager.

§ 105-64.302-6 Reproduction fee schedule.

(a) The fee for reproducing a copy of a GSA record (by routine electrostatic copying) up to and including material 8½ × 14 inches shall be $0.10 per page.

(b) The fee for reproducing a copy of a GSA record over 8½ × 14 inches or whose physical characteristics do not permit reproduction by routine electrostatic copying shall be the direct cost of reproducing the records through Government or commercial sources.

Subpart 105-64.4—Requests To Amend Records

§ 105-64.401 Submission of requests to amend records.

An individual who desires to amend any record containing personal information about him should direct a written request to the system manager specified in the pertinent FEDERAL REGISTER notice concerning GSA's systems of records. A current GSA employee who desires to amend personnel records should submit a written request to the General Services Administration, Director of Personnel (BP), Washington, DC 20405. Each request should include evidence of and justification for the need to amend the pertinent record. Each request should bear the legend "Privacy Act—Request To Amend Record" prominently marked on both the face of the request letter and the envelope.

§ 105-64.402 Review of requests to amend records.

(a) The system manager shall acknowledge his receipt of a request to amend a record within 10 workdays. If possible, the acknowledgment shall include the system manager's determination either to amend the record or to deny the request to amend as provided in § 105-64.404.

(b) When reviewing a record in response to a request to amend, the system manager shall assess the accuracy, relevance, timeliness, and completeness of the existing record in light of the proposed amendment. He shall determine whether the request for the amendment is justified. With respect to a request to delete information, the system manager also shall review the request and the existing record to determine whether the information is relevant and necessary to accomplish an agency purpose required to be accomplished by statute or Executive Order.

§ 105-64.403 Approval of requests to amend.

If the system manager determines that amendment of a record is proper in accordance with the request to amend, he promptly shall make the necessary corrections to the record and shall send a copy of the corrected record to the individual. Where an accounting of disclosure has been maintained, he shall advise all previous recipients of the record of the fact that a correction has been made and the substance of the correction. Where practicable, the system manager shall send a copy of the corrected record to previous recipients. The system manager shall advise the Director of Information that a request to amend has been approved.

§ 105-64.404 Denial of requests to amend.

(a) If the system manager determines that an amendment of a record is improper or that the record should be amended in a manner other than that requested by an individual, he shall refer the request to amend and his determinations and recommendations to the appropriate official listed in § 105-64.301-4(b) through normal supervisory channels.

(b) If the official listed in § 105-64.301-4(b), after reviewing the request to amend a record, determines to amend the record in accordance with the request, he promptly shall return the request to the system manager with instructions to make the requested amendments in accordance with § 105-64.403.

(c) If the appropriate official listed in § 105-64.301-4(b), after reviewing the request to amend a record, determines not to amend the record in accordance with the request, he promptly shall advise the requester in writing of the determination. The refusal letter (1) shall state the reasons for the denial of the request to amend; (2) shall include proposed alternative amendments, if appropriate; (3) shall state the requester's right to appeal the denial of the request to amend; and (4) shall state the procedures for appealing.

(d) The appropriate official listed in § 105-64.301-4(b) shall furnish the Director of Information a copy of each initial denial of a request to amend a record.

§ 105-64.405 Agreement to alternative amendments.

If the denial of a request to amend a record includes proposed alternative amendments, and if the requester agrees to accept them, he must notify the official who signed the denial. That official immediately shall instruct the system manager to make the necessary amendments in accordance with § 105-64.403.

§ 105-64.406 Appeal of denial of request to amend a record.

(a) A requester who disagrees with a denial of a request to amend a record may file an administrative appeal of that denial. The requester should address the appeal to the General Services Administration, Director of Information (ALVP), Washington, DC 20405. If the requester is an employee of GSA and the denial to amend involves a record maintained in the employee's Official Personnel Folder, as described in Chapter 293 of the Federal Personnel Manual, the appeal should be addressed to the Director, Bureau of Manpower Information Systems, United States Civil Service Commission, Washington, DC 20415.

(b) Each appeal to the GSA Director of Information shall be in writing and must be received by him no later than 30 calendar days from the requester's receipt of a denial of a request to amend a record. The appeal should bear the legend "Privacy Act—Appeal," both on the face of the letter and the envelope.

(c) Upon receipt of an appeal, the Director of Information shall consult with the system manager, the official who made the denial, legal counsel, and such other officials as may be appropriate. If the Director of Information, in consultation with these officials, determines that the record should be amended as requested, he immediately shall instruct the system manager to amend the record in accordance with § 105-64.403 and shall notify the requester of that action.

(d) If the Director of Information, in consultation with the officials specified in paragraph (c) of this section, determines that the appeal should be rejected, he shall submit the file on the request and appeal, including his findings and recommendations, to the Deputy Administrator for a final administrative determination.

(e) If the Deputy Administrator determines that the record should be amended as requested, he immediately shall instruct the system manager in writing to amend the record in accordance with § 105-64.403. The Deputy Administrator shall send a copy of his instructions to the Director of Information, who shall notify the requester of that action.

(f) If the Deputy Administrator determines to reject the appeal, he immediately shall notify the requester in writing of that determination. This action shall constitute the final administrative determination on the request to amend the record and shall include:

(1) The reasons for the rejection of the appeal;

(2) Proposed alternative amendments, if appropriate, which the requester subsequently may accept in accordance with § 105-64.405;

(3) Notice of the requester's right to file a Statement of Disagreement for distribution in accordance with § 105-64.407; and

(4) Notice of the requester's right to seek judicial review of the final administrative determination, as provided in § 105-64.408.

(g) The final agency determination must be made no later than 30 workdays from the date on which the appeal is received by the Director of Information. In extraordinary circumstances, the Administrator may extend this time limit by notifying the requester in writing before the expiration of the 30 workdays. The Administrator's notification will include a justification for the extension.

§ 105-64.407 Statements of disagreement.

Upon receipt of a final administrative determination denying a request to amend a record, the requester may file a Statement of Disagreement with the appropriate system manager. The Statement of Disagreement should include an explanation of why the requester believes the record to be inaccurate, irrelevant, untimely, or incomplete. The system manager shall maintain the Statement of Disagreement in conjunction with the pertinent record, and shall include a copy of the Statement of Disagreement in any disclosure of the pertinent record. The system manager shall provide a copy of the Statement of Disagreement to any person or agency to whom the record has been disclosed only if the disclosure was subject to the accounting requirements of § 105-64.202.

§ 105-64.408 Judicial review.

Within 2 years of receipt of a final administrative determination as provided in § 105-64.301-4 or § 105-64.406, a requester may seek judicial review of that determination. A civil action must be filed in the Federal District Court in which the requester resides or has his principal place of business or in which the agency records are situated, or in the District of Columbia.

Subpart 105-64.5—Report on New Systems and Alteration of Existing Systems

§ 105-64.501 Reporting requirement.

(a) No later than 90 calendar days prior to the establishment of a new system of records, the prospective system manager shall notify the Controller-Director of Administration of the proposed new system. The prospective system manager shall include with the notification a complete description and a justification for each system of records that the system manager proposes to establish. If the Controller-Director of Administration determines that the establishment of the proposed system is in the best interest of the Government, the Controller-Director of Administration will submit, no later than 60 calendar days prior to the establishment of that system of records, a report of the proposal to the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget for their evaluation of the probable or potential effect of that proposal on the privacy and other personal or property rights of individuals.

(b) No later than 90 calendar days prior to the alteration of a system of records, the system manager responsible for the maintenance of that system of records shall notify the Controller-Director of Administration of the proposed alteration. The system manager shall include with the notification a complete description and a justification for each system of records that the system manager proposes to alter. If the Controller-Director of Administration determines that the proposed alteration is in the best interest of the Government, the Controller-Director of Administration shall submit, no later than 60 calendar days prior to the establishment of that alteration, a report of the proposal to the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget for their evaluation of the probable or potential effect of that proposal on the privacy and other personal or property rights of individuals.

(c) The reports required by this regulation are exempt from reports control.

[44 FR 23836, Apr. 23, 1979]

§ 105-64.502 Federal Register notice of establishment of new system or alteration of existing system.

The Controller-Director of Administration shall publish in the FEDERAL REGISTER a notice of the proposed establishment or alteration of a system of records when:

(a) The Controller-Director of Administration receives notice that the Senate, the House of Representatives, and the Office of Management and Budget do not object to the establishment of a new system of records or to the alteration of an existing system of records, or

(b) No fewer than 30 calendar days elapse from the date of submission of the proposal to the Senate, the House of Representatives, and the Office of Management and Budget without receipt by the Controller-Director of Administration of an objection to the proposal.

[44 FR 23836, Apr. 23, 1979]

§ 105-64.503 Effective date of new systems of records or alteration of an existing system of records.

Systems of records proposed to be established or altered in accordance with the provisions of this subpart shall be effective no sooner than 30 calendar days from the publication of the notice required by § 105-64.502.

Subpart 105-64.6—Exemptions

§ 105-64.601 General exemptions.

The following systems of records shall be exempt from all provisions of the Privacy Act of 1974 with the exception of subsections (b); (c)(1) and (2); (e)(4)(A) through (F); (e)(6), (7), (9), (10), and (11); and (i) of the act:

(a) Incident Reporting System, GSA/PBS-3.

(b) Investigation and Personnel Security Case Files, GSA/ADM-24.

The system of records GSA/PBS-3 and the criminal investigation case files of the system of records GSA/ADM-24 are exempt to the extent that information in the systems pertains to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals; to the activities of prosecutors, courts, and correctional, probation, pardon, or parole authorities; and to (1) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (2) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, that is associated with an identifiable individual; or (3) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws, from arrest or indictment through release from supervision. These systems are exempted to maintain the efficacy and integrity of the Federal Protective Service's and the Office of Investigations' law enforcement function.

[44 FR 23836, Apr. 23, 1979]

§ 105-64.602 Specific exemptions.

The following systems of records shall be exempt from subsections (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f) of the Privacy Act of 1974:

(a) Incident Reporting System, GSA/PBS-3.

(b) Investigation and Personnel Security Case Files, GSA/ADM-24.

The systems are exempt (1) to the extent that the systems consist of investigatory material compiled for law enforcement purposes; however, if any individual is denied any right, privilege, or benefit to which the individual would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence and (2) to the extent the systems consist of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence. The systems have been exempted to maintain the efficacy and integrity of lawful investigations conducted pursuant to the Federal Protective Service's and Office of Investigations' law enforcement responsibilities and responsibilities in the areas of Federal employment, Government contracts, and access to security classified information.

[44 FR 23837, Apr. 23, 1979]

Subpart 105–64.7—Assistance and Referrals

§ 105—64.701 Request for assistance and referral.

Requests for assistance and referral to the responsible system manager or other GSA employee charged with implementing these regulations should be made to the Director of Information, Washington, DC 20405.

[41 FR 42956, Sept. 29, 1976]

PART 105-65—NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

Sec.
105-65.000 Scope of part.
105-65.001 Definitions.
105-65.002 Purpose of the Commission.
105-65.003 Programs of the Commission.

Subpart 105-65.1—National Historical Publications Program

105-65.100 General.
105-65.101 Scope and purpose.
105-65.102 Organization.
105-65.103 Book publication projects.
105-65.103-1 General.
105-65.103-2 Subsidies for printing costs.
105-65.104 Microform publication project.
105-65.104-1 General.
105-65.104-2 Standards.

Subpart 105-65.2—National Historical Records Program

105-65.200 General.
105-65.201 Scope and purpose.
105-65.202 Organization.
105-65.203 State records program organization.
105-65.203-1 State Historical Records Cooridinator.
105-65.203-2 State Historical Records Advisory Board.

Subpart 105-65.3—Grant Procedures

105-65.300 Types of grants.
105-65.301 Grant limitations.
105-65.302 Grant applications.
105-65.302-1 Who may apply.
105-65.302-2 Where to apply.
105-65.302-3 When to apply.
105-65.303 Application requirements.
105-65.303-1 Project proposals.
105-65.303-2 Proposed budgets.
105-65.304 Review and evaluation of records project proposals.
105-65.305 Grant administration responsibilities.
105-65.306 Grant instrument.
105-65.307 Grant period and payments.
105-65.308 Adherence to original budget estimates.
105-65.309 Adherence to original project objectives.
105-65.310 Grant reports.
105-65.311 Safety precautions.
105-65.312 Acknowledgement.
105-65.313 Revocation of grants.
105-65.314 Transfer of grants to other institutions.
105-65.315 Repayment of grant funds.

Sec.
105-65.316 Responsibility for exceeding grant funds.
105-65.317 Records, accounting practices, and audit.
105-65.318 Compliance with Government-wide requirements.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); and 44 U.S.C. 25.

SOURCE: 42 FR 56123, Oct. 21, 1977, unless otherwise noted.

§ 105-65.000 Scope of part.

This part prescribes the procedures and rules governing the operation of the programs of the National Historical Publications and Records Commission.

§ 105-65.001 Definitions.

(a) The term "Commission" means the National Historical Publications and Records Commission or the Chairman of the Commission or the Executive Director of the Commission, acting on the Commission's behalf.

(b) The term "historical records" means published record material having permanent or enduring value regardless of physical form or characteristics, including but not limited to manuscripts, personal papers, official records, maps, and audiovisual materials.

(c) The term "State" means all 50 States of the Union, plus Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the District of Columbia.

§ 105-65.002 Purpose of the Commission.

The National Historical Publications and Records Commission makes plans, estimates, and recommendations regarding the preservation and use of historical records that may be important for an understanding and appreciation of the history of the United States. It also cooperates with and encourages appropriate Federal, State, and local agencies and nongovernmental institutions in collecting and preserving and, when it considers it desirable, in editing and publishing the records of outstanding citizens, groups, or institutions and other important documents. On recommendation of the Commission, the Administrator of General Services makes allocations to Federal agencies and grants to State and local agencies and to nonprofit organizations and institutions in support of these programs.

§ 105-65.003 Programs of the Commission.

The Commission operates primarily through a National Historical Publications Program (Subpart 105-65.1) and a National Historical Records Program (Subpart 105-65.2).

Subpart 105-65.1—National Historical Publications Program

§ 105-65.100 General

This subpart describes the scope, purpose, and organization of the National Historical Publications Program and prescribes requirements applicable to book and microform publication projects. Grant application and administration procedures are given in Subpart 105-65.3.

§ 105-65.101 Scope and purpose.

The National Historical Publications Program is intended to ensure the dissemination and accessibility of documentary source material important to the study and understanding of U.S. history. Projects shoud therefore be based upon material of widespread interest among scholars, students, and informed citizens. Documents should have historical value and interest that transcend local and State boundaries. More specific guidance may be found in the Commission's "A National Program for the Publication of Historical Documents: A Report to the President" (1954) and "A Report to the President Containing a Proposal by the National Historical Publications Commission" (1963), and in various reports of advisory committees to the Commission which contain examples of documentary publication projects that the Commission feels merit consideration in a national program. These reports are available on request from the Commission (mailing address: National Historical Publications and Records Commission (NP), Washington, DC 20408). In carrying out this program, the aim of the Commission is to promote the highest quality of scholarship without undue interference or control.

§ 105-65.102 Organization.

The Executive Director, the Deputy Executive Director for the Publications program, and the staff of the Commission administer the program under the guidance of the Commission and the immediate administrative direction of its chairman, the Archivist of the United States. The Commission may establish special advisory committees, composed of leading historians, archivists, and other specialists, to assist in developing plans for desirable projects in particular areas and to review and make recommendations regarding proposed projects.

§ 105-65.103 Book publication projects.

§ 105-65.103-1 General.

Each book publication project shall include either the papers of a U.S. leader in a significant phase of life in the United States or documents relating to some outstanding event or to some topic or theme of national significance in U.S. history. These projects shall consist of collecting, compiling, editing, and publishing, either selectively or comprehensively, the papers or documents. Publication may be in the form of book only or book supplemented by microform. One copy of each book publication should be deposited with the National Historical Publications and Records Commission (NP), Washington, DC 20408.

§ 105-65.103-2 Subsidies for printing costs.

(a) The Commission will consider applications from university and other nonprofit presses for the subvention of part of the costs of printing and manufacturing volumes that have been formally endorsed by the Commission. Grants not exceeding $10,000 per volume are recommended to reduce, to that extent, demonstrated losses sustained by the presses in publishing volumes essential to the Commission's program.

(b) The granting of a subvention shall be used to encourage the highest standards in the production of volumes, particularly the quality of paper and ink. From time to time the Commission will issue a statement of standards applicable to volumes produced under subvention grants.

(c) The Commission may seek the assistance of the Association of American University Presses and others in determining the allocation of funds to particular presses for specific volumes.

(d) The Commission shall receive 15 complimentary copies of each published volume for which a subvention grant is made.

§ 105-65.104 Microform publication projects.

§ 105-65.104-1 General.

Each microform publication project shall involve the arrangements and filming, with adequate editorial apparatus, of papers of national significance located in repositories throughout the United States. The grantee shall make positive prints and all finding aids resulting from these microform projects available to institutions, scholars, or students, for loan and for purchase without profit. Copies of microform publications need not be deposited with the Commission, but the existence of all such microform publications should be reported to the National Union Catalog of Manuscript Collections at the Library of Congress. At least 500 copies of all finding aids shall be printed, of which 50 copies shall be supplied to the Commission.

§ 105-65.104-2 Standards.

The Commission from time to time issues technical standards which will be supplied to grantee institutions at the time a grant is made for a microform project. These standards will not be changed while a project is in progress, but new technical standards may be issued and made applicable to other grantee institutions when their projects begin.

Subpart 105-65.2—National Historical Records Program

§ 105-65.200 General.

This subpart describes the scope, purpose, and organization of the National Historical Records Program.

Grant application and administration procedures are given in Subpart 105-65.3

§ 105-65.201 Scope and purpose.

Through its national historical records program, the National Historical Publications and Records Commission encourages a greater effort at all levels of government and by private organizations to preserve and make available for use those records, generated in every facet of life, that further and understanding and appreciation of U.S. history. In the public sector, these historical records document significant activities of States, county, municipal, and other units of government. In the private sector, historical records include manuscripts, personal papers, and family or corporate archives that are maintained by a variety of general repositories as well as materials in special collections relating to particular fields of study, including the arts, business, education, ethnic, and minority groups, immigration, labor, politics, professional services, religion, science, urban affairs, and women. In addition to supporting projects relating directly to a body of records, the Commission may also support projects to advance the state of the art, to promote cooperative efforts among institutions and organizations, and to improve the knowledge, performance, and professional skills of those who work with historical records.

§ 105-65.202 Organization.

The Executive Director, Deputy Executive Director for the Records Program, and the staff of the Commission administer the records program under the guidance of the Commission and the immediate administrative direction of its chairman, the Archivist of the United States. The Commission may establish special advisory committees, composed of leading historians, archivists, and other specialists, to assist it in developing plans for desirable projects in particular areas and to review and make recommendations regarding proposed projects.

§ 105-65.203 State records program organization.

§ 105-65.203-1 State Historical Records Coordinator.

The Governor of each State desiring to participate in the program shall appoint a State Historical Records Coordinator (Coordinator), who shall be the full-time professional official in charge of either the State archival agency or the State-funded historical agency. If the State has both agencies, the official in charge who is not appointed Coordinator shall be a member of the State Historical Advisory Board. The Coordinator is appointed to a 4-year term with the possibility of renewal. The Coordinator shall serve as chairman of the State Historical Records Advisory Board and shall be the central coordinating officer for the historical records grant program in the State. The person appointed will receive no Federal compensation for such service. The pamphlet

"The State Historical Records Coordinator and the State Historical Records Advisory Board: Suggested Roles and Procedures." which is available from the Commission and from State Historical Records Coordinators, provides further information on the role of the Coordinator.

§ 105-65.203-2 State Historical Records Advisory Board.

(a) The Governor of each State desiring to participate in the program shall appoint a State Historical Records Advisory Board (Board) consisting of at least seven members, including the State Historical Records Coordinator, who chairs the Board. A majority of the members shall have recognized experience in administration of historical records or archives. The Board shall be as broadly representative as possible of the public and private archival and research institutions and organizations in the State. Board members receive no Federal compensation for their service on the Board. They are appointed for 3 years with the possibility of renewal; terms are staggered so that one-third of the

Board is newly appointed or reappointed each year.

(b) The Board is the central advisory body for historical records planning and for projects developed and carried out within the State. Specifically, the Board may perform such duties as sponsoring and publishing surveys of the conditions and needs of historical records in the State; soliciting or developing proposals for projects to be carried out in the State with Commission financing; reviewing records proposals by institutions in the State and making recommendations from these to the Commission; developing, revising, and submitting to the Commission State priorities for historical records projects following guidelines developed by the Commission; and reviewing, through reports and otherwise, the operation and progress of records projects in the State financed by the Commission.

[42 FR 56123, Oct. 21, 1977, as amended at 44 FR 51594, Sept. 4, 1979]

Subpart 105-65.3—Grant Procedures

§ 105-65.300 Types of grants.

The Administrator of General Services, on the advice and recommendation of the Commission, makes three types of grants: Outright grants, matching grants, and combined grants.

(a) *Outright grants.* An application for an outright grant requests the Commission to support the entire cost of a project, minus the share of the cost borne by the applicant. Any direct or indirect costs relating to the project that are contributed by the applicant may be included as cost sharing. The maximum possible cost sharing is encouraged in every proposal, and the level of cost sharing will be an important factor in the Commission's consideration of most types of proposals.

(b) *Matching grants.* An application for a matching grant should be made when an applicant has prospects of securing financial support from third parties or, in the case of a State or local government agency, new funds from the institution's own appropriation source are provided expressly for the project proposed in the application. Upon Commission approval of a matching grant request, the applicant shall present written documentation certifying that matching funds have been provided for the project by the non-Federal source. In the case of a State or local government agency, the matching requirement may also be met through matching funds from the State or local government provided that it can be demonstrated to the Commission's satisfaction that the matching amount has been provided above and beyond funds previously allocated or planned for the agency's budget and that the funds are set aside exclusively to support the project proposed for Commission support. Matching funds may be granted only after the Commission has approved a proposal and after documentation has been submitted to the Commission demonstrating that the matching funds are forthcoming from the non-Federal source. Applicants need not, however, have money in hand to make a matching grant request; they need only assure the Commission that they have reasonable prospects of obtaining the needed amounts.

(c) *Combined grants.* A combined grant comprises both outright funds and matching funds. When the gifts an applicant can raise plus the equivalent amount of Commission money do not equal the required budget, the difference is requested in outright funds. For example, if the applicant needs $75,000 and is able to raise $25,000 in gifts or in a new appropriation for the project, a combined grant of $25,000 outright and $25,000 in matching funds for a total of $50,000 should be requested from the Commission.

§ 105-65.301 Grant limitations.

The Commission does not provide grants in instances of excessive or unequal access restrictions placed on materials by a repository or donor, for the purchase of certain categories of capital improvement and equipment, for work on the papers of public officials still in office, for oral history interviews or transcription, and for other reasons as prescribed from time to time in Commission policy statements. Grant limitations are described in procedure pamphlets available on request from the Commission.

§ 105-65.302 Grant applications.

§ 105-65.301-1 Who may apply.

Applications from nonprofit organizations and institutions and from Federal, State, and local government agencies will be considered. Proposals under the National Historical Records Program for State projects (but not regional or national projects) will be accepted only from applicants in States in which a State Historical Records Coordinator has been appointed and a State Historical Records Advisory Board nominated and approved. The records program pamphlet "Guidelines and Procedures: Applications and Grants," which is available from the Commission and from State Historical Records Coordinators, provides guidance on determining State Historical Records Coordinators, provides guidance on determining whether a proposed project is considered a State project.

§ 105-65.302-2 Where to apply.

Project proposals and related correspondence shall be sent to the National Historical Publications and Records Commission (NP), Washington, D.C. 20408. Multiple copies of State proposals under the records program shall also be sent to the appropriate State Historical Records Coordinator. Applicants should contact the Commission or appropriate Coordinator for current requirements. Before they are submitted, proposals may be discussed with the Commission staff or, if appropriate, with the State Historical Records Coordinator. The Commission encourages these discussions through correspondence, by phone, or in person.

§ 105-65.302-3 When to apply.

Grant proposals are considered during Commission meetings held three or four times during the year. For current application deadlines, contact the Commission or State Historical Records Coordinators.

§ 105-65.303 Application requirements.

Applications for grants under the National Historical Publications Program and the National Historical Records Program shall include a detailed project proposal (see § 105-65.303-1), a proposed budget (see § 105-65.303-2), and a civil rights compliance assurance signed by the administrative officer authorizing the grant proposal. A sample compliance statement is available from the Commission. For records proposals, the application shall include also a cover sheet that may be obtained from the Commission or State Historical Records Coordinators.

§ 105-65.303-1 Project proposals.

Project proposals shall be submitted in accordance with the guidelines published in the appropriate Commission pamphlet "Publications Program Guidelines and Procedures: Applications and Grants," or "Records Program Guidelines and Procedures: Applications and Grants," which are available on request from the Commission or from each Coordinator.

§ 105-65.303-2 Proposed budgets.

The proposed budget shall list all items to be supplied by the sponsor or others and those requested from the Commission. The estimate of the total cost shall be calculated for each year, and proposed contributions to the project from other Federal and non-Federal sources shall be listed. A summary of all past and current support for the project and a statement of whether the proposal is being considered by other possible funding sources shall be included. The Commission shall be notified of any additional support for the project that is received after the submission of a proposal or after the receipt of any grant under this program. Applicants may request funds for the duration of project. However, in many instances the Commission will recommend a grant for 1 year only with annual resubmission required for additional funding. The budget shall include the following categories:

(a) *Salaries.* The salaries of personnel directly associated with a project are appropriate costs in proportion to the time devoted to the project if that portion of the salary would not be paid without grant funding. Grant funds do not augment salaries of full-time staff members. Proposals shall indicate which personnel are to be hired to carry out the proposed project and which are already on the staff of the accident. If existing personnel are to be used, justification for Commission support of any portion of their salaries shall be provided. Project directors, assistants, technicians, and secretarial and clerical personnel shall be listed in accordance with the percentage of time devoted to the project.

(b) *Equipment and supplies.* Specialized articles of equipment required for a project shall be itemized by description and estimated cost and include an adequate justification. Items not normally considered eligible are filing cabinets, furniture, typewriters, and other types of office equipment.

(c) *Travel.* The extent of any travel and its relationship to the project shall be specified.

(d) *Publication costs.* When projects involve publication, costs and projected selling price and number of copies to be printed shall be indicated to the extent possible.

(e) *Other direct costs, indirect costs, and contingency funds.* All direct costs of the project not covered by this subsection shall be itemized. No allowances for contingencies may be included in the proposed budget. The Commission normally approves budget items for indirect costs only when these costs are included in the cost-sharing portion of the budget or, in the case of matching grants, when they are included in the non-Commission matching portion. Only negotiated indirect cost rates with approval by an appropriate Federal agency shall be used in grant applications submitted to the Commission.

§ 105-65.304 Review and evaluation of records project proposals.

State Historical Records Advisory Boards review and evaluate proposals for State projects and forward them to the Commission with recommendations for action. Boards may decide that certain proposals are incomplete or require further development; in these instances proposals may be returned to the applicant by the Board with a recommendation for revision. The Commission staff shall be informed of the recommendations. Proposals received from Boards and regional and national proposals received directly by the Commission are reviewed by the Commission staff for completeness, conformity with application requirements, and relevance to the objectives of the grant program. Regional and national proposals may also be referred by the Commission staff to selected State Historical Records Coordinators, members of Boards, or others with appropriate knowledge to assist the Commission and its staff in an objective review and evaluation of the projects. Following review and evaluation, proposals are referred to the Commission at regular meetings.

§ 105-65.305 Grant administration responsibilities.

Primary responsibility for the administration of grants is shared by the grantee institution and the project director designated by the institution.

§ 105-65.306 Grant instrument.

The project grant instrument is a letter from the Administrator of General Services or the Archivist of the United States to the grantee. The letter and attachments outline conditions of the grant.

§ 105-65.307 Grant period and payments.

The grant period begins on the date specified in the grant letter and runs the length of time specified therein. Expenditures incurred before the effective date of the grant shall not be charged against the grant. An advance of funds is provided to each institution to finance the work under the grant.

§ 105-65.308 Adherence to original budget estimates.

No expenses shall be charged to grant funds unless provided for in the budget summary or approved in a subsequent letter from the Commission. The Commission shall be informed promptly by the grantee of any significant departure from the budget summary.

[43 FR 14316, Apr. 5, 1978]

§ 105-65.309 Adherence to original project objectives.

During any grant period there shall be no alteration of the type of project or of its scope and intended purpose without prior written approval from the Commission. The Commission shall be contacted in all instances in which circumstances indicate the desirability of changes in type, scope, or objectives of a project.

§ 105-65.310 Grant reports.

Semiannual and final financial reports, made on Standard Form 269, financial Status Report, are required. Semiannual reports covering 6-month periods following the grant date shall be forwarded to the Commission within 30 calendar days after the end of each report period. Final reports shall be forwarded to the Commission within 90 calendar days of the expiration or termination of the grant. If the grant period is less than 6 months, only a final report shall be due. Semiannual reports are due for the first 3 years of a project, after which reports shall be submitted annually. In accordance with the Federal Reports Act of 1942, the Office of Management and Budget Approval Number 80-R0180 has been assigned to this public-use report.

§ 105-65.311 Safety precautions.

The Commission cannot assume any liability for accidents, illnesses, or claims arising out of any work undertaken with the assistance of the grant.

§ 105-65.312 Acknowledgment.

Grantee institutions, grant directors, or grant staff personnel may publish results of any work supported by a grant or award without review by the Commission. Publications or other products resulting from the project should, however, acknowledge the assistance of the Commission.

§ 105-65.313 Revocation of grants.

Grants may be revoked in whole or in part by the Commission for cause upon written notice of the decision and the reasons, or for the convenience of the Government upon concurrence of the grantee institution and the project director. However, the revocation shall not affect any financial commitment of grant funds that had become firm before the effective date of the revocation. Upon revocation the grantee shall reduce, to the extent possible, the amount of outstanding commitments and shall return within 90 calendar days to the Commission, citing the appropriate grant number, the uncommitted balance of all funds paid the grantee under the grant. The grantee shall promptly inform the Commission whenever there is reason to believe that circumstances may require revocation.

§ 105-65.314 Transfer of grants to other institutions.

The Commission will not transfer grants from one institution to another.

§ 105-65.315 Repayment of grant funds.

Grant funds that are not committed before the completion of the grant project shall be returned with the financial report, citing the appropriate grant number, to the Commission within 90 calendar days of the completion of the project.

§ 105-65.316 Responsibility for exceeding grant funds.

All commitments and expenditures incurred by the grantee in excess of the funds provided by the grant or beyond the termination of the grant shall be the responsibility of the grantee. Expenditures incurred before the effective date of the grant shall not be charged against grant funds.

§ 105-65.317 Records, accounting practices, and audit.

Accounting records relating to all expenditures for each project shall be kept in accordance with generally accepted accounting practices. These records are subject to inspection and audit at all reasonable times during the grant period and for 3 years thereafter in accordance with OMB Circular A-110 and Federal Management Circular 74-7.

§ 105-65.318 Compliance with Government-wide requirements.

In addition to the grant application and grant administration requirements outlined in this Part 105-65, grantees are responsible for complying with applicable Government-wide requirements.

PART 105-66—NATIONAL ARCHIVES TRUST FUND BOARD—[RESERVED]

PART 105-735—STANDARDS OF CONDUCT

Subpart 105-735.1—General

Sec.

105-735.101 Enforcement of standards.
105-735.102 Definitions.
105-735.103 Responsibilities.
105-735.104 Proper conduct of official activities.
105-735.105 Equal opportunity.
105-735.106 Approval and publication of regulations.

Subpart 105-735.2—Standards of conduct for GSA Personnel

105-735.201 Proper conduct of official activities.
105-735.202 Business dealings on behalf of the Government.
105-735.203 Contributions.
105-735.204 Outside employment.
105-735.205 Travel.
105-735.206 Use of Government facilities, property, and staff.
105-735.207 Misuse of information.
105-735.208 Disclosure of information.
105-735.209 Use of position titles in connection with commercial enterprises.
105-735.210 Indebtedness.
105-735.211 Gambling, betting, and lotteries.
105-735.212 General conduct prejudicial to the Government.
105-735.213 Intermediaries.
105-735.214 Lending or borrowing money.
105-735.215 Political activity.
105-735.216 Reporting suspected irregularities.
105-735.217 Purchase of Government property.
105-735.218 Purchase of real estate.
105-735.219 Use of intoxicants.
105-735.220 Use of Government vehicles.
105-735.221 Use of official telephones.
105-735.222 Use of Government records.
105-735.223 Post-employment conflict of interest.
105-735.224 [Reserved]

Subpart 105-735.3—Statements of Employment and Financial Interests

Sec.

105-735.301 General.
105-735.302 Criteria for selection of positions subject to filing requirement.
105-735.303 Identification of positions, the incumbents of which must file Statements of Employment and Financial Interests.
105-735.304 Annual statements.
105-735.305 Interests of relatives.
105-735.306 Information not known by employee.
105-735.307 Information excluded.
105-735.308 Confidentiality of statements.
105-735.309 Effect of statements on other requirements.
105-735.310 Procedure in obtaining statements.
105-735.311 Responsibility for review of statements.
105-735.312 Resolving conflicts of interest.
105-735.313 Employee complaint against filing requirement.
105-735.314 Inconsequential financial interests.
105-735.315 [Reserved]

Subpart 105-735.4—Financial Disclosure Reports

105-735.401 General
105-735.402 Who must file.
105-735.403 Notice of obligation to file.
105-735.404 When to file.
105-735.405 Where to file.
105-735.406 Extensions of time.
105-735.407 Review of reports.
105-735.408 Procedures for resolving noncompliance.
105-735.409 Penalties for failure to comply with reporting requirements.
105-735.410 Public access and copying.
105-735.411 Notices of conflicts and potential conflicts.
105-735.412 [Reserved]

Subpart 105-735.5—Miscellaneous Statutory Provisions

105-735.501 Summary of pertinent conflict of interest laws.
105-735.502 Laws applicable to GSA personnel.
105-735.503 Code of ethics for Government service.

Subpart 105-735.6—Violation of Post Federal Employment Prohibitions

105-735.601 General.
105-735.602 Notification and opportunity for hearing.
105-735.603 Hearings.
105-735.604 Action by the Administrator.

Sec.
105-735.605 Period of prohibition and disciplinary action.
105-735.606 Records.

AUTHORITY: E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104, unless otherwise noted.

SOURCE: 45 FR 9273, Feb. 12, 1980, unless otherwise noted.

Subpart 105-735.1—General

§ 105-735.101 Enforcement of standards.

This part prescribes the fundamental rules of ethics in the conduct of Government business that are mandatory for all who serve in the General Services Administration. These rules are in addition to the criminal laws and other laws governing conduct of Federal employees. Like the laws, they will be strictly interpreted and firmly enforced. Ignorance of these rules or laxity in observance or enforcement of them will not be condoned. They are the prime responsibility of all GSA personnel.

§ 105-735.102 Definitions.

For the purposes of this part, the following terms have the meaning shown:

(a) "Special Government employee" means an officer or employee who has been employed to perform temporary duties, with or without compensation, for not more than 130 days during any period of 365 consecutive days, either on a full-time or intermittent basis (18 U.S.C. 202(a)).

(b) "Employee" means any officer or employee of GSA who is not a special Government employee.

(c) "Person" means an individual, corporation, company, association, firm, partnership, society, joint stock company, or any other organization or institution.

(d) "GSA contractor" is a person or entity that is engaged in or seeks business or financial relations of any sort with any GSA component; or conducts operations or activities that are either regulated by a GSA component or significantly affected by GSA decisions; or has interests that may be substantially affected by the performance or nonperformance of the official duties of GSA personnel.

(e) "GSA personnel" means all GSA employees, including special Government employees.

(f) "Gratuity" means any gift, favor, entertainment, hospitality, transportation, loan, or any other tangible thing, and any intangible benefit (for example, discounts, passes, or promotional vendor training) given to or on behalf of GSA employees or their spouses, minor children, or households, for which fair market value is not paid by the recipient or the Government.

(g) "Standards of Conduct Counsellors" are defined in § 105-735.103(b).

(h) "Appropriate supervisor" means that supervisor within the chain of authority who is acquainted with the duties of the subordinate GSA personnel concerned and has the duty to determine the existence and effect of any conflict of interests of the personnel. This is usually the immediate supervisor of the GSA personnel concerned.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[45 FR 9273, Feb. 12, 1980, as amended at 46 FR 25305, May 6, 1981]

§ 105-735.103 Responsibilities.

(a) Heads of Services and Staff Offices and Regional Administrators.

(1) Heads of Services and Staff Offices and Regional Administrators are responsible for ensuring that (i) all GSA personnel under their supervision are familiar with and understand the standards of conduct and statutes governing conflicts of interest and post-Federal employment restrictions; (ii) all GSA personnel under their supervision are informed of and are familiar with the identity of their appropriate supervisor and their Deputy Standards of Conduct Counsellor; and (iii) disciplinary or remedial action is taken in the case of all GSA personnel who violate these standards or related laws and regulations, and against supervisors who fail to carry out their responsibilities in taking or recommending disciplinary or remedial action in such cases.

(2) Heads of Services and Staff Offices and Regional Administrators shall ensure that GSA personnel

under their supervision are given a copy of this directive and an oral standards of conduct briefing following receipt. New GSA personnel shall also receive a copy and a briefing preceding employment or promptly following assumption of duties. Each individual receiving this briefing shall attest in writing to attendance at the briefing, and that he or she has a copy of the standards of conduct and acknowledges the requirements imposed. All GSA personnel shall be provided with a briefing at least semiannually regarding these standards by Heads of Services and Staff Offices and Regional Administrators. All GSA personnel shall be provided with a copy of all revisions to the standards of conduct and be required to attest in writing to receiving and acknowledging their duty to comply with the standards of conduct.

(3) Heads of Services and Staff Offices and Regional Administrators shall bring the contents of this directive to the attention of the principal officer of each contractor doing significant business with GSA, and shall periodically use the opportunity afforded by conferences with representatives of industry and others transacting business with the GSA to direct attention to these standards of conduct regulations. Care shall be taken to avoid needless duplication of distribution of copies to contractors.

(b) The Special Counsel to the Administrator for Ethics is the Agency Standards of Conduct Counsellor, the Designated Agency Ethics Official, and the Director of the Office of Ethics. The Special Counsel is delegated authority to speak for the Administrator in all matters involving interpretation and application of the standards of conduct. Authority is also delegated to the Special Counsel to determine in individual cases that a specific financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from the particular employee concerned.

(1) The Special Counsel to the Administrator for Ethics shall designate Deputy Standards of Conduct Counsellors. Those designated shall be responsible for providing advice and assistance to GSA personnel on all questions arising from the operation and implementation of this directive. They are also responsible for the proper review, including audits, coordination, and advice, regarding all standards of conduct problems, and shall ensure that posters identifying them as a Deputy Standards of Conduct Counsellor and stating their location are prominently displayed in appropriate locations.

(2) The Special Counsel to the Administrator for Ethics shall supervise the adequacy of the advice and training in standards of conduct provided to all GSA personnel and shall be responsible for the timely collection and review of all Statements of Employment and Financial Interests, and of all Financial Disclosure Reports. In these matters the Deputy Standards of Conduct Counsellor shall be subject to the policy guidance and direction of the Special Counsel to the Administrator for Ethics.

(c) Supervisors shall (1) ensure that all GSA personnel under their supervision are instructed in and understand the standards of conduct required by this directive and the laws governing conflicts of interest and postemployment restrictions and adhere to them at all times; and (2) take or recommend disciplinary or remedial action in the case of those who violate the standards or related laws and regulations.

(d) All GSA personnel are required to (1) be fully familiar with the standards of conduct covered in this directive and the laws governing conflicts of interest and postemployment restrictions; (2) comply strictly with them; and (3) maintain the highest standards of ethical conduct in transacting the Government's business. When in doubt as to the permissibility under this directive of any action on their part, they shall not act until they have received the advice of a Deputy Standards of Conduct Counsellor.

(e) Each Regional Counsel is responsible for auditing and ensuring that posters of the Code of Ethics for Government Service and posters notifying employees of the identity and telephone number of their Deputy Standards of Conduct Counsellors are at all times widely and prominently displayed throughout the region by those in GSA whose primary duty it is to mount and display the posters as required by law.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[45 FR 9273, Feb. 12, 1980, as amended at 46 FR 25305, May 6, 1981]

§ 105-735.104 Proper conduct of official activities.

(a) GSA personnel shall become familiar with the scope of authority for, and the limitations concerning, the activities for which they have responsibilities.

(b) GSA personnel shall not make or recommend any expenditure of funds or take or recommend any action known or believed to be in violation of U.S. laws, Executive Orders, or applicable directives, instructions, or regulations.

(c) In case of doubt as to the propriety of a proposed action or decision in terms of regulation or law, GSA personnel shall consult Legal Counsel or, if appropriate, the Special Counsel to the Administrator for Ethics or a Deputy Standards of Conduct Counsellor to ensure the proper and lawful conduct of GSA activities.

§ 105-735.105 Equal opportunity.

GSA personnel shall scrupulously adhere to the GSA program of equal opportunity regardless of race, color, religion, sex, age, handicap, or national origin.

§ 105-735.106 Approval and publication of regulations.

The regulations in this part and any changes thereto are effective only after approval by the Office of Personnel Management and publication in the Federal Register.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25306, May 6, 1981]

Subpart 105-735.2—Standards of Conduct for GSA Personnel

§ 105-735.201 Proper conduct of official activities.

(a) GSA personnel shall observe the requirements of courtesy, consideration, and promptness in dealing with the public.

(b) GSA personnel shall avoid any action, whether or not specifically prohibited by this directive, which might result in or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

§ 105-735.202 Business dealings on behalf of the Government.

(a) *The public trust.* Those who represent the Government in business dealings have positions of trust and grave responsibility that require them to observe the highest ethical standards. Practices that may be customary in the private business world are not necessarily acceptable for GSA personnel, who are held to a higher standard of public trust.

(b) *Dealing with Government personnel.* GSA personnel shall not knowingly deal on behalf of the Government with present or former Government personnel whose participation in the transaction would be in violation of a statute, regulation, or policy set forth in this directive.

(c) *Impartiality in conduct of official business.* GSA personnel shall not allow themselves to be placed in a position in which a conflict of interest might arise or might justifiably be suspected. Such a conflict may arise or appear to arise by the acceptance of gratuities or by any action which could reasonably be interpreted as influencing the strict impartiality that must prevail in all business relationships involving the Government. Strict impartiality is often difficult to maintain when business relationships are allowed to become overly personal. GSA personnel shall ensure that persons doing business or attempting to do business with the agency, or representing business entities, are not permitted to ingratiate themselves to the extent that GSA personnel hesitate to deny requests for special treatment or otherwise to follow the rule of strict impartiality when officially dealing with such persons.

(d) *Conflicts of interest.* (1) Affiliations and Financial Interests. GSA personnel shall not engage in any personal, business, or professional activity, or receive or retain any direct or indirect financial interest, which places them in a position of conflict or apparent conflict between their private interests and the public interests of the United States related to the duties or responsibilities of their GSA positions. For the purpose of this prohibition, the private interests of a spouse and a minor child are treated as private interests of the GSA personnel.

(2) Using Inside Information. GSA personnel shall not use, directly or indirectly, inside information to further a private gain for themselves or others if that information is not generally available to the public and was obtained by reason of their GSA positions.

(3) Using GSA Position. GSA personnel are prohibited from using their official positions to induce, coerce, or in any manner influence any person, including subordinates, to provide any improper benefit, financial or otherwise, to themselves or others.

(4) Disqualification or Divestiture Requirements. Unless otherwise expressly authorized by action taken under 18 U.S.C. 208, all GSA personnel who have affiliations or financial interests which create conflicts, or appearances of conflicts, of interests with their official duties must disqualify themselves from any official activities that are related to those affiliations or interests or the entities involved. A written disqualification must be must be sent to an individual's superior and immediate subordinates whenever it appears possible that the individual's official functions will affect those affiliations, interests, or entities. If the individual cannot adequately perform official duties after such disqualification, he must divest himself of such involvement or be removed from that position.

(5) Membership in Associations. GSA personnel who are members or officers of non-Governmental associations or organizations must avoid activities on behalf of the association or organization that are incompatible with their official Government positions, and must not accept an office proffered because of their Government position and not as a result of a bona fide election.

(6) Commercial Soliciting by GSA Personnel. To eliminate the appearance of coercion, intimidation, or pressure from grade or position, full-time GSA personnel, except special Government employees, are prohibited from making personal commercial solicitations for sales, at any time, on or off duty, to GSA personnel who are under their supervision at any level.

(i) This limitation includes, but is not limited to, the solicitation and sale of insurance, stocks, mutual funds, real estate, and any other commodities, goods, or services.

(ii) This prohibition is not applicable to the one-time sale by an individual of his own personal property or privately owned dwelling or to the off-duty employment of GSA personnel as employees in retail stores, or other situations not including solicited sales.

(iii) See 18 U.S.C. 205 regarding prohibitions applicable to participation of special Government employees in particular matters involving a specific party or parties.

(e) *Acceptance of gratuities.* (1) Acceptance of gratuities (no matter how innocently tendered or received) from those who have or seek business dealings with GSA may be a source of embarrassment to the recipient, and may impair public confidence in the integrity of the conduct of the Government's business. It is emphasized that prohibited conflicts and apparent conflicts of interest can sometimes arise even from relationships and transactions that the persons concerned perceive as inconsequential.

(2) Except as provided in paragraph (e)(3) of this section below GSA personnel and their spouses, minor children, and members of their households shall not solicit, accept, or agree to accept any gratuity for themselves, members of their families, or others, either directly or indirectly from or on behalf of a GSA contractor.

(3) This general prohibition does not apply to the following:

(i) The continued participation in employee welfare or benefit plans of a former employer when permitted by law and approved by the appropriate Deputy Standards of Conduct Counsellor;

(ii) Trophies, entertainment, prizes, or awards for public service or achievement or given in games or contests which are clearly open to the public or which are offically approved for GSA personnel participation;

(iii) Items available to the public generally, or a large segment of the public (such as university scholarships, attendance at free exhibitions of GSA contractors at public trade fairs and discounts);

(iv) Participation by GSA personnel in civic and community activities when the involvement of GSA contractors is remote from the business purposes of any contractor who is sponsoring, supporting, or participating in the activity (for example, participation in a Little League or Combined Federal Campaign luncheon which is subsidized by a GSA contractor);

(v) Social activities engaged in by GSA officials or their representatives with local civic leaders as part of community relations programs of GSA;

(vi) Instances in which the interests of the Government are served by participation of a GSA employee in widely attended luncheons, dinners, and similar gatherings sponsored by industrial, technical, or professional associations for the discussion of matters of mutual interest. Participation in these events is permitted only when the host is the association and not a private company, and only when approved by the employee's supervisor as being a part of or related to official duties. Acceptance of gratuities, food, or refreshments from a private company in connection with such associations' activities is forbidden;

(vii) Situations in which participation by GSA personnel at public ceremonial activities of mutual interest to industry or local communities and GSA serves the interests of the Government and acceptance of the invitation is approved by the head of the activity to which the invitee is attached;

(viii) Contractor-provided transportation, meals, or overnight accommodations in connection with official business when arrangements for Government or commercial transportation, meals, or accommodations are clearly impracticable and prior approval of the appropriate supervisor is obtained if practicable and the recipient reports the circumstances in writing to the appropriate supervisor as soon as possible;

(ix) Attendance or participation of GSA personnel in gatherings, including social events such as receptions, which are hosted by foreign governments or international organizations, provided that the acceptance of the invitation is approved by the head of the activity to which the invitee is attached or, when there is doubt as to the propriety of acceptance, by higher authority;

(x) Customary exchanges of gratuities between GSA personnel and their friends and relatives or the friends and relatives of their spouses, minor children, or members of their household where the circumstances make it clear that it is that relationship rather than the business of the persons concerned which is the motivating factor for the gratuity and where it is clear that the gratuity is not paid for by any person or entity described in § 105-735.102(d); and

(xi) Situations in which, in the sound judgment of the individual concerned or his or her superior, the Government's interest will be served by GSA personnel participating in activities otherwise prohibited. In such a case, a written report of the circumstances shall be made by the individual or his or her appropriate superior before acceptance; or, when an advance report is not possible, within 48 hours after acceptance, to the appropriate supervisor and the appropriate

Deputy Standards of Conduct Counsellor.

(4) GSA personnel who are offered or receive unsolicited gratuities (or have gratuities received for them) in circumstances not in conformance with the standards of this section, shall promptly report the circumstances to the appropriate supervisor for a determination as to proper disposition and shall report the matter fully to the Inspector General. The appropriate supervisor shall consult with a Deputy Standards of Conduct Counsellor.

(5) For rules governing acceptance of gifts from foreign governments, their agents, or instrumentalities, see GSA Order, Acceptance of gifts and decorations from foreign governments by GSA employees (OAD 7880.2). All gifts of more than "minimal value" (as defined in that directive) that are accepted by GSA employees shall be promptly reported.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[45 FR 9273, Feb. 12, 1980, as amended at 46 FR 25306, May 6, 1981]

§ 105-735.203 Contributions.

GSA personnel shall not solicit contributions for a gift to an employee in a superior official position. A person in a superior official position shall not accept a gift presented as a contribution from employees receiving less salary than himself or herself. GSA personnel shall not make a donation as a gift to a person in a superior official position (5 U.S.C. 7351). These prohibitions do not apply to a voluntary gift of reasonable value (or a donation in a nominal amount) made on a special occasion such as marriage, illness, resignation, transfer, or retirement.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25306, May 6, 1981]

§ 105-735.204 Outside employment.

GSA personnel may engage in outside employment or other outside activity not incompatible with the full and proper discharge of the duties and responsibilities of his or her Government job.

(a) GSA personnel who propose to engage in outside employment shall report that fact in writing to their supervisor prior to accepting such employment, and shall supply such additional details concerning the nature of that employment as may be required by the supervisor (or a Deputy Standards of Conduct Counsellor) to assist in determining whether the employment is compatible with the full and proper discharge of the employee's official duties. If the supervisor determines that the outside employment is prohibited by this section, the supervisor shall so advise the employee and inform the employee of the consequences of such employment. Deputy Standards of Conduct Counsellors are available to assist supervisors in making such determinations. Activities listed in subparagraph d, below, are exceptions to this rule and require no notification.

(b) *Guidelines and limitations.* Outside employment or other outside activity is incompatible with the full and proper discharge of an employee's duties and responsibilities, and hence is prohibited, if:

(1) It would involve the violation of a Federal or State statute, a local ordinance, Executive order, or regulation to which the employee is subject.

(2) It would give rise to a real or apparent conflict of interest situation. For example, where it would involve work for any contractor or subcontractor for GSA (or any other employer) where that employer may be in a position to gain advantage in its dealings or potential dealings with the Government because of the employee's position.

(3) It would involve acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance might result in, or create the appearance of, a conflict of interest.

(4) It might bring discredit upon, or reasonably cause unfavorable criticism of, the Government or GSA or lead to relationships which might impair public confidence in the integrity of the Government or GSA.

(5) [Reserved]

(6) It would identify GSA or the employee officially with any organization manufacturing, distributing, or advertising a product. In any permissible outside employment, care shall be taken to ensure that names and titles of employees are not used to give the impression that the activity or product is officially endorsed or approved by GSA or is part of GSA activities.

(7) It would involve use of the employee's time during official working hours.

(8) It would involve use by the employee of official facilities, e.g., office space, office machines or supplies, or the services of other employees during duty hours.

(9) It would be of such extent or nature as to interfere with the efficient performance of the employee's Government duties, or impair the employee's mental or physical capacity to perform them in an acceptable manner.

(10) It would involve use of information obtained as a result of Government employment that is not freely available to the general public in that it either has not been made available to the general public or would not be made available on request. Written authorization for the use of any such information may be given when the Administrator determines that such use would be in the public interest. Further guidelines appear in paragraph (c) below.

(11) It involves the practice of law as an outside professional activity for a fee or other compensation by an incumbent of an attorney position, except that such employee may serve as paid counsel in those instances and conditions specified in 18 U.S.C. 205.

(12) It involves the receipt of salary or anything of value from a private source as compensation for services to the Government (18 U.S.C. 209).

(c) Use of Government information or expertise.

(1) GSA personnel are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, Executive order, Office of Personnel Management (OPM) regulations, or the provisions of this part. They shall not, however, with or without compensation, engage in teaching, lecturing, or writing that depends on information obtained as a result of Government employment, except when that information has been made available to the general public or will be made available on request, or when the Administrator gives written authorization for use of nonpublic information on the basis that the use is in the public interest. This prohibition includes teaching, lecturing, or writing for the purpose of the special preparation of persons for an examination of the Office of Personnel Management or Board of Examiners for the Foreign Service.

(2) Except as provided in § 105-735.205 (and further qualified below), GSA personnel are prohibited from accepting fees, reimbursements, or honoraria for speaking, lecturing, or writing, or for appearing as expert witnesses before State agencies, unless all the following conditions exist:

(i) Acceptance from the person or entity tendering or funding it would not be prohibited under § 105-735.202(e);

(ii) The individual presents himself as a private citizen and not in an official capacity;

(iii) Such private activities do not interfere with the individual's official duties; and

(iv) The individual's appearance or writing is not part of his or her official duties, does not involve materials which official duties require the individual to prepare or provide, and does not depend on information obtained as a result of Government employment, except when that information has been published or is generally available to the public upon request, or it will be made generally available to the public and the official authorized to release such information to the public gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(3) Unless there is a definite Government position on a matter addressed in the appearance or writing and the individual has been authorized by superior authorities to present that position officially, he shall expressly present his views on that matter as his own and not as those of the Government.

(4) By Executive order the Administrator and Inspector General are prohibited from receiving compensation or anything of value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to responsibilities, programs, or operations of this agency, or which draws substantially on official data or ideas which have not become part of the body of public information.

(d) GSA personnel who engage in the following activities with or without compensation, are not required to notify their supervisor:

(1) Participation in the activities of national or State politicial parties when not prohibited by law.

(2) Participation in the affairs of, or acceptance of an award for a meritorious public contribution or achievement given by, a charitable, religious, professional, social, fraternal, nonprofit educational, public service, or civic organization.

(e) Prior written approval of the immediate supervisor is required for an employee to engage in any outside employment while on sick leave from GSA employment. Except under unusual circumstances where the facts warrant the granting of permission, employees are prohibited from engaging in other employment, either during working hours or outside working hours, during periods of sick leave.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[45 FR 9273, Feb. 12, 1980, as amended at 46 FR 25306, May 6, 1981]

§ 105-735.205 Travel.

(a) Acceptance of accommodations, subsistence, or services, furnished in kind, in connection with official travel from sources other than those indicated in § 105-735.202(e) above is authorized only when the individual is to be a speaker, panelist, project officer, or other bona fide participant in the activity attended and when such attendance and acceptance is authorized by the order-issuing authority as being in the overall Government interest.

(b) Except as indicated in § 105-735.202(a) above, GSA personnel may not accept personal reimbursement from any source for expenses incident to official travel, unless authorized by their supervisor consistent with guidance provided by the appropriate Deputy Standards of Conduct Counsellor (pursuant to 5 U.S.C. 4111 or other authority). Rather, reimbursement must be made to the Government by check payable to the Treasurer of the United States. Personnel will be reimbursed by the Government in accordance with applicable regulations.

(c) In no case shall GSA personnel accept, either in kind or for cash reimbursement, benefits which are extravagant or excessive in nature.

(d) When accommodations, subsistence, or services in kind are furnished to GSA personnel by non-U.S. Government sources, consistent with this subsection, appropriate deductions shall be reported and made in the travel, per diem, or other allowances payable.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25307, May 6, 1981]

§ 105-735.206 Use of Government facilities, property, and staff.

GSA personnel shall not directly or indirectly use, take, or dispose of, or allow the use, taking, or disposing of, Government property, facilities, or services, of any kind, including property leased to the Government, for other than officially approved purposes. Government facilities, property, and staff (such as stationary, stenographic and typing assistance, or duplication and chauffeur services) shall be used only for official Government business. GSA personnel have a positive duty to protect and conserve Government property.

§ 105-735.207 Misuse of information.

For the purpose of furthering a private interest, GSA personnel shall not, except as provided in § 105-735.204(c), directly or indirectly use, or allow the use of, official information obtained through or in connection with their GSA employment which has not been made available to the general public. Criminal penalties are imposed for disclosure of classified or confidential information.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25307, May 6, 1981]

§ 105-735.208 Disclosure of information.

Disclosure of information from records shall conform with the provisions of the Freedom of Information and Privacy Acts (5 U.S.C. 552).

§ 105-735.209 Use of position titles in connection with commercial enterprises.

GSA employees are prohibited from using their title or positions in connection with any commercial enterprise or in endorsing any commercial product. This does not preclude author identification for materials published in accordance with GSA procedures.

§ 105-735.210 Indebtedness.

GSA personnel shall pay their just financial obligations in a proper and timely manner, especially those imposed by law, such as Federal, State, or local taxes. For the purposes of this paragraph, a "just financial obligation" means one acknowledged by the employee, or reduced to judgment by a court. In a dispute between GSA personnel and an alleged creditor, GSA will not undertake to determine the validity or amount of a disputed debt.

§ 105-735.211 Gambling, betting, and lotteries.

GSA personnel shall not participate, while on property owned or leased by the Government or while on duty for GSA, in any gambling activity, including the operation of a gambling device, participating in a lottery or pool, participating in a game for money or property, or selling or purchasing a numbers slip or ticket, except as otherwise lawfully authorized.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25307, May 6, 1981]

§ 105-735.212 General conduct prejudicial to the Government.

GSA personnel shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct prejudicial to the Goverment.

§ 105-735.213 Intermediaries.

In any relations with the public, GSA personnel shall not recommend or suggest the use of any non-Government person (individual, firm, corporation, or other entity) offering service as intermediary, consultant, agent, representative, attorney, expediter, or specialist for the purpose of assisting in any negotiations, transactions, or other business with GSA.

§ 105-735.214 Lending or borrowing money.

GSA personnel shall not lend money for profit to other GSA personnel or lend money for profit to any other person on Government premises. A supervisor shall not borrow money from a subordinate under any circumstances. This prohibition is not applicable to recognized employee credit unions or employee welfare plans.

§ 105-735.215 Political activity.

(a) GSA employees shall not take an active part in political management or in political campaigns; however, political activity in some local elections is permissible. Prohibited activities and exceptions thereto are set forth in subchapter III of chapter 73 of title 5, U.S.C., and chapter 733 of the Federal Personnel Manual.

(b) GSA special Government employees are subject to the political activity restrictions of subchapter III of chapter 73 of title 5, U.S.C., and 18 U.S.C. 602, 603, 607, and 608 while in an active duty status only and for the entire 24 hours of any day of actual employment.

(c) Advice on this subject is available from any GSA legal counsel.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[45 FR 9273, Feb. 12, 1980, as amended at 46 FR 25307, May 6, 1981]

§ 105-735.216 Reporting suspected irregularities.

It is the obligation of GSA personnel to report immediately any apparent or suspected violation of a statute, order, regulation, or directive in connection with any operation of GSA. The report shall be made to the Assistant Inspector General for Investigations in the Central Office or to the appropriate Special Agent in charge in the regions. When appropriate, the Office of the Inspector General shall report such apparent or suspected violations to the proper management official. GSA personnel shall cooperate with representatives conducting official investigations and furnish signed statements under oath if appropriate.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25307, May 6, 1981]

§ 105-735.217 Purchase of Government property.

GSA personnel shall not purchase for themselves or for any other person, either directly or indirectly any Government property, personal or real, being sold by GSA. This prohibition also applies to any member of their immediate household, and may be waived in writing by the Administrator in appropriate cases. This prohibition does not apply to the purchase of items sold by GSA-operated stores of a retail nature and offered to the general public at predetermined fixed prices.

§ 105-735.218 Purchase of real estate.

GSA personnel, whose official duties are in any way related to the acquisition or disposal of real estate or interests therein or to the maintenance or improvement of real estate, shall not, directly or indirectly, purchase any real estate or interest therein except for occupancy as their personal residence unless a full disclosure of the proposed transaction is made in writing to the appropriate supervisor who shall consult with the Special Counsel to the Administrator for Ethics (regional counsel in a region), and the prior written approval of the appropriate supervisor is obtained. A copy of the approval shall be promptly furnished by the supervisor to the Special Counsel to the Administrator for Ethics. Surplus real property may not be purchased under any circumstances. (See § 105-735.217.)

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25307, May 6, 1981]

§ 105-735.219 Use of intoxicants.

GSA personnel shall not use intoxicants habitually to excess (5 U.S.C. 7352). GSA personnel shall not use intoxicants on U.S. Government-owned or leased premises except upon occasions and on property as to which the Administrator or Regional Administrator has granted an exception in writing or, in the case of property occupied by another agency, except as authorized by the head of that agency in accordance with law.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25307, May 6, 1981]

§ 105-735.220 Use of Government vehicles.

GSA personnel shall not use or authorize the use of Government-owned or leased motor vehicles or aircraft for other than official purposes (31 U.S.C. 638(c)) and shall operate such vehicles or aircraft in strict compliance with all applicable laws.

§ 105-735.221 Use of official telephones.

GSA personnel shall not use Federal Telecommunications System or commercial telephone facilities for long-distance calls unless specifically authorized to do so.

§ 105-735.222 Use of Government records.

GSA personnel shall not knowingly and willfully and unlawfully conceal, remove, mutilate, falsify, or destroy any Government document or record (18 U.S.C. 2085, 2071).

§ 105-735.223 Post-employment conflict of interest.

(a) Enforcement responsibility.

(1) Individual. It is the obligation of all GSA personnel, upon ending service with GSA, to review the post-employment restrictions imposed by law and to determine the restrictions applicable to that individual's future employment and dealings with the agencies of the Federal Government. The limitations are summarized in regula-

tions of the Office of Government Ethics, Office of Personnel Management.

(2) Procedures. It is the responsibility of the Assistant Administrator for Human Resources and Organization to establish procedures to insure that departing GSA personnel are furnished information regarding post-employment limitations and that qualified individuals are made available to provide advice upon request.

(3) General enforcement authority. The Ethics in Government Act and the implementing regulations are enforced by the GSA, the Department of Justice and the Office of Government Ethics.

(b) Scientific and Technological Communications. Contacts with GSA that otherwise would be subject to the post-employment prohibitions may be authorized if the following requirements are met:

(1) The GSA office receiving the contact or communication is advised by the former officer or employee, or by the organization represented by that individual, of the prior employment status of the individual and the general subject matter to be communicated. Notice will be given in advance of any communication, if possible.

(2) The subject matter of the communications is limited to scientific and technological exchanges. These may include discussions of feasibility, risk, cost, and speed of implementation.

(3) The GSA office receiving the communication or participating in the discussions maintains copies of the written communications and written summaries of any discussions.

(c) Exemption for persons with special qualifications in a technical discipline.

(1) Scope of the exemption. A former Government officer or employee may be exempted from the restrictions on post-employment practices if the following conditions are met:

(i) The Administrator certifies that:

(A) The former Government employee has outstanding qualifications in a scientific, technological, or other technical discipline;

(B) The former employee is acting with respect to a particular matter which requires such qualifications; and

(C) That the national interest would be served by the former Government employee's participation;

(ii) The certification is published in the FEDERAL REGISTER.

(2) Limitations. The use of this exemption will be limited to instances where the former Government employee's involvement is needed on so continuous and comprehensaive a basis that compliance with the procedures adopted for communication of technological information or other actions to isolate the former Government employee from other aspects of the matter, would be burdensome and impractical.

(3) GSA Registry. The Assistant Administrator for Human Resources and Organization shall establish a registry for current employees, where the nature of their qualifications in one or more technical fields is certified after review by a supervisor, as a basis for establishing such qualifications in connection with, and to expedite a later request for, certification should the necessity for such request arise. Employees in any component of the GSA may apply, through their supervisors, for positions on this registry. A separate record will be maintained by the Office of the Assistant Administrator for Human Resources and Organization listing those former employees for whom the certification has been granted.

§ 105-735.224 [Reserved]

Subpart 105-735.3—Statements of Employment and Financial Interests

§ 105-735.301 General.

Employees and special Government employees in specified positions (other than those required to file Financial Disclosure Reports on Standard Form 278) are required to file statements of employment and financial interests. GSA Forms 2157, Statement of Employment and Financial Interest, for Use by all GSA employees except special Government Employees; GSA Form 2158 is for use by special Government employees of GSA.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25307, May 6, 1981]

§ 105–735.302 Criteria for selection of positions subject to filing requirement.

The following criteria govern selection of positions subject to the requirement of filing Statements of Employment and Financial Interests. Personnel designated to file Financial Disclosure Reports (Standard Forms 278) are not subject to this requirement.

(a) Positions in grade GS-13 or above under 5 U.S.C. 5332, or at a comparable pay level under another authority, the incumbents of which are responsible for making Government decisions or taking a Government action in regard to:

(1) Contracting or procurement;

(2) Administering or monitoring grants or subsidies;

(3) Regulating or auditing private or other non-Federal enterprise; or

(4) Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise.

(b) Positions in grade GS-13 or above under 5 U.S.C. 5332, or at a comparable pay level under another authority, the duties of which require the incumbent to report employment and financial interests to avoid involvement in possible conflicts-of-interest situations and to carry out the purpose of law, Executive order, and GSA regulations.

(c) Positions below grade GS-13 under 5 U.S.C. 5332, or at a comparable pay level under another authority, that meet the criteria in a or b above, and which have been specifically designated as exceptions essential to protect the integrity of the Government by avoiding employee involvement in conflicts of interest or apparent conflicts-of-interest situations.

(d) Positions that meet the criteria of paragraph (a) of this section may be excluded from the reporting requirement when:

(1) Duties are such that the likelihood of involvement in a conflicts-of-interest situation is remote;

(2) Duties are at such a level of responsibility that submission of a statement is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

(e) With respect to special Government employees, a statement of employment and financial interests is required whenever any special Government employee is to be hired as a consultant or expert. All those who are to be appointed experts and consultants are first required to file Statements of Employment and Financial Interests (see ADM 2800.12A). Such statements shall be reviewed as required in Subpart 105–735.3 of this directive before a decision is made to hire the individual as a special Government employee.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[45 FR 9273, Feb. 12, 1980, as amended at 46 FR 25308, May 6, 1981]

§ 105–735.303 Identification of positions, the incumbents of which must file Statements of Employment and Financial Interests.

(a) Heads of Central Office and Regional Office Services and Staff Offices shall annually review all GS-13 through 15 position descriptions under their cognizance and no later than March 15 of each year submit a recommendation to the Special Counsel to the Administrator for Ethics (through the regional counsel in the regions) identifying any specific changes in the list of positions that should be designated as requiring the incumbent to submit Statements of Employment and Financial Interests. The Assistant Administrator for Human Resources and Organization or the Assistant Regional Administrator for Administration will recommend any positions not in a service or staff office; for example, those in the Administrator's or Regional Administrator's immediate office.

(b) The recommendations shall contain a position description and a description of the incumbents of the specified positions by name, title, grade, and organizational location.

(c) The Special Counsel to the Administrator for Ethics will review the recommendations and will designate each position that he determines requires the incumbent to file a Confidential Statement of Employment and Financial Interests.

(d) When a new position is established, or the duties of an existing position are materially changed, the position shall be evaluated to determine whether or not it should be designated as one requiring the incumbent to submit a Statement of Employment and Financial Interests.

(e) New positions that qualify under the specified criteria shall be promptly processed in the manner provided in paragraphs (a), (b), and (c) of this section, so that the required statement may be submitted not later than 30 days after the employee's entrance on duty in the new position or the changed position.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[45 FR 9273, Feb. 12, 1980, as amended at 46 FR 25308, May 6, 1981]

§ 105-735.304 Annual statements.

Annual statements shall be submitted on or before July 31 each year, containing information current as of June 30 of that year. A complete statement is required even if it reflects no change since the last statement submitted. Notwithstanding the filing of the annual statement, GSA personnel shall at all times avoid acquiring a financial interest that could result, or taking an action that could result, in a conflict of interests. Each special Government employee shall keep the statement current throughout his or her employment with GSA by the submission of supplementary statements.

§ 105-735.305 Interests of relatives.

The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. Such interest includes but is not limited to identification of the individual's employer, financial holdings, and debts. For the purpose of this section, "member of an employee's immediate household" includes those blood relations who are residents of the employee's household and excludes in-laws. These provisions also apply to special Government employees.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25308, May 6, 1981]

§ 105-735.306 Information not known by employee.

If information required to be included on a statement including a description of holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his or her behalf.

§ 105-735.307 Information excluded.

An employee is not required to submit information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For this purpose, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement. These provisions also apply to special Government employees.

§ 105-735.308 Confidentiality of statements.

Statements of employment and financial interests shall be held in confidence. Access to information from the statements shall not be disclosed except to carry out the purpose of this directive.

§ 105-735.309 Effect of statements on other requirements.

The requirement for the Confidential Statement of Employment and Financial Interests is in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation, except that GSA personnel required to submit Financial Disclosure Reports (Standard Form 278 or 278A) are not required to submit Confidential Statements of Employment and Financial Interests. The submission of a statement by GSA personnel does not permit them or any other person to participate in a matter in which that participation is prohibited by law, order, or regulation. These provisions also apply to special Government employees.

§ 105-735.310 Procedure in obtaining statements.

(a) For annual submissions, the appropriate supervisor shall have delivered to the incumbent of each position designated by the Administrator two copies of the statement of employment and financial interests form on or before June 30. The original of the completed form must be returned to the appropriate supervisor no later than July 31. The services of a Deputy Standards of Conduct Counsellor are available to advise and counsel the submitter if requested.

(b) The personnel office shall be responsible for ensuring that a completed statement of employment and financial interests is obtained from new GSA personnel who are subject to the requirement before or at the time of entrance on duty. Such statements shall be forwarded for review by the personnel office to the appropriate supervisor and then to a Deputy Standards of Conduct Counsellor, as appropriate.

§ 105-735.311 Responsibility for review of statements.

(a) The appropriate supervisor as defined in § 105-735.102(g), above, is responsible for receiving and promptly reviewing all Statements of Employment and Financial Interests submitted by subordinate employees, and for promptly placing his or her comments thereon, dating and signing them, and forwarding them to the Deputy Standards of Conduct Counsellor for further review. The Deputy Standards of Conduct Cousellor shall record comments on the statement, recommending action where appropriate to resolve any conflict of interests, real or potential, revealed by the statement. If both the appropriate supervisor and Deputy Standards of Conduct Counsellor concur that no conflict or apparent conflict exists, the Deputy Standards of Conduct Counsellor shall endorse the statement accordingly and return it to the appropriate supervisor for retention.

(b) If in the opinion of the Deputy Standards of Conduct Counsellor a conflict or potential conflict is revealed by the statement, that fact shall be noted in the appropriate comment section; and the Deputy Standards of Conduct Counsellor and the appropriate supervisor shall immediately institute necessary action to resolve the conflict. The Deputy Standards of Conduct Counsellor shall promptly return the statement to the appropriate supervisor for retention after completion of review, and after any action necessary to remove any real or potential conflict of interests.

(c) When controversy over means of resolution cannot be promptly resolved, the matter shall be referred to the Head of Service, Staff Office or Regional Administrator, as appopriate, for decision. See § 105-735.312 for procedures to resolve conflicts. When the matter is finally resolved, all relevant papers shall be returned with the statement to the appropriate supervisor for retention. All appropriate supervisors are delegated the responsibility to safeguard and retain in lockable metal cabinets the Statements of Employment and Financial Interests of their subordinate employees in accordance with the Privacy Act of 1974, as amended.

(d) All Statements of Employment and Financial Interests must be reviewed by August 31 of each year. Resolution of any remaining real or potential conflict of interests must be completed as soon as possible after August 31 but no later than September 30 of each year. A statistical report from each Deputy Standards of Conduct Counsellor responsible for reviewing Statements of Employment and Financial Interests shall be submitted to the Special Counsel to the Administrator for Ethics not later than September 15 of each year. The statistical report shall indicate the number of statements required, the number of statements received, and the results and status of the review of the statements, including but not limited to the number of statements approved and those awaiting final resolution. In matters that are unresolved, a brief presentation of the problem and the proposed disposition shall be stated.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25308, May 6, 1981]

§ 105-735.312 Resolving conflicts of interest.

(a) When in the review of a Statement of Employment and Financial Interests, the appropriate supervisor or a Deputy Standards of Conduct Counsellor has reason to believe that a possible conflict of interests exists, or more information on which to make a judgment is required, the submitter shall be offered an opportunity to provide additional information or to furnish any explanation deemed pertinent. This information must be documented for the file and incorporated into the statement.

(b) When, after consideration of the matters offered, a determination is made that a conflict or potential conflict of interests exists, an effort shall be made by the appropriate supervisor, in consultation with the Deputy Standards of Conduct Counsellor and the individual submitter, to resolve the conflict in a manner that is mutually acceptable. When it cannot be satisfactorily resolved at the regional level or by the Head of Service or Staff Office, as appropriate, the Deputy Standards of Conduct Counsellor shall consult the Special Counsel to the Administrator for Ethics.

(c) If all of the above efforts of the Deputy Standards of Conduct Counsellor are unsuccessful in resolving a conflict or potential conflict by decision of the Head of Service, Staff Office or Regional Administrator, as appropriate, the case will be referred to the Special Counsel to the Administrator for Ethics for final resolution by the Administrator.

(d) Remedial action directed by the Administrator may include but is not limited to one or more of the following:

(1) Disqualification for a particular assignment;

(2) Change in assigned duties, or termination of employment;

(3) Divestment by the employee or special Government employee of the conflicting interests;

(4) Establishment of a blind trust; and

(5) Disciplinary action, including removal.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25308, May 6, 1981]

§ 105-735.313 Employee complaint against filing requirement.

An employee required to file a statement of employment and financial interests who believes that the position has been improperly included under these regulations may request a review of such inclusion in accordance with the GSA Grievance Procedure.

§ 105-735.314 Inconsequential financial interests.

Financial interests of the following type are deemed too remote or too inconsequential to affect the integrity of the employee's service and need not be reported: Investments in Federal, State, or local government bonds and notes; and investments in shares of a widely diversified mutual fund or regulated investment company.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25309, May 6, 1981]

§ 105-735.315 [Reserved]

Subpart 105-735.4—Financial Disclosure Reports

§ 105-735.401 General.

The Ethics in Government Act of 1978, as amended (the Act), requires that GSA personnel in specified positions file periodic Financial Disclosure Reports. For these individuals, this requirement is in lieu of the Statement of Employment and Financial Interests required by Executive order. Standard Form 278 shall be used by employees filing annual reports, termination of employment reports, and by employees required to file assumption of duty reports.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25309, May 6, 1981]

§ 105-735.402 Who must file.

GSA personnel occupying positions specified in Title II of the Act or positions designated by the Director of the Office of Government Ethics, Office of Personnel Management.

§ 105-735.403 Notice of obligation to file.

(a) The Assistant Administrator for Human Resources and Organization shall record in each relevant position description that the incumbent is required to file a Financial Disclosure Report. He shall provide each such person with the appropriate report form upon assumption of the duties of the position, upon termination of such duties, and annually no later than 30 days prior to the May 15th filing deadline prescribed by the Act. Vacancy announcements for appropriate positions shall contain a statement that the incumbent will be subject to the financial disclosure requirements of the Act.

(b) When providing each form, the Assistant Administrator for Human Resources and Organization shall send the recipient, by name, a memorandum explaining when and where to file, and shall provide the Special Counsel to the Administrator for Ethics and the individual's appropriate supervisor with a copy of the memorandum.

§ 105-735.404 When to file.

(a) The individual shall file a Financial Disclosure Report within 30 calendar days of assuming a position described in Title II of the Act, unless the individual has left another position described in Title II within 30 days prior to assuming the new position. Individuals coming to a position in GSA described in Title II of the Act from a similiar position in another agency shall furnish a copy of their last report filed with the former agency to the Special Counsel to the Administrator for Ethics through their appropriate supervisor.

(b) The individual shall file a Financial Disclosure Report within 30 calendar days of terminating employment in a position requiring the incumbent to submit a Financial Disclosure Report.

(c) The individual shall file a Financial Disclosure Report no later than May 15 of each calendar year, if the employee occupied a position described in Title II of the Act during the preceding calendar year and performed those duties for more than 60 days in that year.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25309, May 6, 1981]

§ 105-735.405 Where to file.

Reports shall be filed with the Special Counsel to the Administrator for Ethics through the individual's appropriate supervisor, who shall first review it and record the required endorsement in the "Comments" section as stated in § 105-735.407

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25309, May 6, 1981]

§ 105-735.406 Extensions of time.

The Special Counsel to the Administrator for Ethics may extend the date of filing for 20 calendar days, and an additional 15 calendar days upon a written request stating good cause. GSA personnel desiring additional time shall make their request to the Special Counsel, who shall forward the request to the Office of Government Ethics.

§ 105-735.407 Review of reports.

(a) A reporting individual shall submit the report to his or her appropriate supervisor for review. The appropriate supervisor shall, within ten days of receipt, make a signed and dated statement in the "Comments" section of the report, stating whether or not the report reveals a conflict or the appearance of a conflict with the employee's official duties, and shall immediately forward the report to the Special Counsel to the Administrator for Ethics by the most expeditious means, meanwhile taking action to avoid the reporting individual's participation in matters involving a conflict or apparent conflict.

(b) The Special Counsel shall ensure that all reports are reviewed on a priority basis, and in any event, within 60 days of filing.

(c) If the Special Counsel concludes that the reporting individual is in compliance with applicable laws or regulations, that finding shall be entered on the report, the report signed and dated, and the reporting individual duly notified in writing.

(d) If the Special Counsel believes that additonal information is required, the reporting individual shall be informed of the information required and the time by which it must be submitted.

(e) If, on the basis of the information provided, the Special Counsel concludes that a reporting individual is not in compliance with applicable laws and regulations, the reporting individual and his or her appropriate supervisor shall be so notified. The reporting individual shall be afforded a reasonable opportunity for a written or oral response. After consideration of the response, the Special Counsel shall reach an opinion as to whether or not the individual is in compliance.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[45 FR 9273, Feb. 12, 1980, as amended at 46 FR 25309, May 6, 1981]

§ 105-735.408 Procedures for resolving noncompliance.

(a) If, after opportunity for an oral or written response, the Special Counsel to the Administrator for Ethics concludes the individual is not in compliance, the Special Counsel shall notify the individual and, after an opportunity for personal consultation (if practicable), notify the reporting individual in writing of the steps by the employee considered appropriate for assuring compliance and the date by which those steps should be taken. Steps may include: (1) divestiture; (2) restitution; (3) establishment of a qualified trust; (4) request for an exemption under section 208(b) of Title 18, U.S.C.; (5) voluntary request for transfer, reassignment, limitation of duties, or resignation. (See § 105-735.202(d)(4) of this part.)

(b) If steps for assuring compliance are not taken by the employee by the date set, the matter shall be referred by the Special Counsel to the Administrator for Ethics to the Administrator for appropriate disposition.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[45 FR 9273, Feb. 12, 1980, as amended at 46 FR 25309, May 6, 1981]

§ 105-735.409 Penalties for failure to comply with reporting requirements.

(a) The Special Counsel to the Administrator for Ethics shall report to the Administrator the name of any individual who willfully fails to file a report; who willfully fails to report required information; or who is reasonably believed to have willfully falsified a report.

(b) The Administrator will afford the individual an opportunity to explain his or her actions. Any unresolved matter will be referred to the Attorney General, and administrative disciplinary action may also be instituted.

§ 105-735.410 Public access and copying.

Financial Disclosure Reports are available for public inspection and copying in accordance with the Act. Financial Disclosure Reports are filed in GSA's Office of Ethics, 18th & F Streets, N.W., Washington, D.C. 20405.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[46 FR 25309, May 6, 1981]

§ 105-735.411 Notices of conflicts and potential conflicts.

The Special Counsel to the Administrator for Ethics shall maintain and periodically publish a list of those circumstances which have resulted or may result in noncompliance with conflict of interest laws or regulations. Absence of a particular item from this list shall not be construed as an indication that the situation does not constitute a conflict or appearance of a conflict of interests or a violation of laws or regulations.

§ 105-735.412 [Reserved]

Subpart 105-735.5—Miscellaneous Statutory Provisions

§ 105-735.501 Summary of pertinent conflict of interest laws.

(a) *18 U.S.C. 203.* Prohibitions in subsection (a) of this statute are encompassed by prohibitions in 18 U.S.C. 205 below. Subsection (b) makes it unlawful to offer or to pay compensation, the solicitation or receipt of which is barred by subsection (a).

(b) *18 U.S.C. 205.* (1) This section prohibits Government personnel from acting as agent or attorney for anyone else before a department, agency, or court in connection with any particular matter in which the United States is a party or has a direct and substantial interest.

(2) The following exemptions are allowed:

(i) Section 205 does not prevent Government personnel from giving testimony under oath or making statements required to be made under penalty of perjury or contempt or from representing another person, without compensation, in a disciplinary, loyalty, or other personnel matter.

(ii) Section 205 also authorizes a limited waiver of its restrictions and those of section 203 for the benefit of an officer or employee, including a special Government employee, who represents his or her own parents, spouse, or fiduciary. The waiver is available only if approved by the official making appointments to the position. In no event does the waiver extend to representation of any such person in matters in which he or she has participated personally and substantially or which, even in the absence of such participation, are the subject of his or her official responsibility.

(iii) Finally, section 205 gives the head of a department or agency the authority to allow a special Government employee to represent his or her regular employer or other outside organization in the performance of work under a Government grant or contract, if the department or agency head certifies and publishes in the FEDERAL REGISTER, that the national interest requires such representation.

(c) *18 U.S.C. 208.* (1) Paragraph (a) of this section requires executive branch personnel to refrain from participating as Government personnel in any matter in which they, their spouses, minor children, or partners have financial interests or in which businesses or nonprofit organizations with which such personnel are connected or are seeking employment have financial interests. A "particular matter" may be less concrete than an actual contract, but is something more specific than rule making or abstract scientific principles. The test is whether the individual might reasonably anticipate that his or her Government action, or the decision in which he or she participates or with respect to which he or she advises, will have a direct and predictable effect upon such financial interests.

(2) Paragraph (b) permits agencies to grant an ad hoc exemption from subsection (a) if the outside financial interest is deemed not substantial enough to affect the integrity of Government services. Categories of financial interests may also be made nondisqualifying by a general regulation published in the FEDERAL REGISTER.

(d) 18 U.S.C. 209. Paragraph (a) prevents executive branch personnel from receiving, and anyone from paying them, any salary or supplementation of salary from a private source as compensation for their Government service. Paragraph (b) permits participation in a bona fide pension plan or other employee welfare or benefit plan maintained by a former employer. Paragraph (c) exempts special Government employees and anyone serving the Government without compensation. Paragraph (d) exempts contributions, awards, or other expenses under the Government Employees Training Act (5 U.S.C. 2301-2319).

(e) *18 U.S.C. 207, Applicable to former Government personnel.* (1) *Restrictions applicable to all former officers and employees.* (i) Permanent bar. A former Government employee is permanently barred from serving as agent or attorney for anyone other than the United States before any

Government office or agency on any particular matter involving specific parties in which the former officer or employee had participated personally and substantially while with the Government.

(ii) Two-Year bar. A restriction similar to the one summarized above prevents a former employee for two years from representational activities on all particular matters which were actually pending under the former employee's "official responsibility" during the one-year period prior to the termination of such responsibility.

(2) *Restrictions applicable only to "senior employees."*(i) Identification of "senior employees": There are three types of senior employees. Two are named automatically by statute: civilians at the Executive Level and active duty military personnel at grades 09 or above. The third group consists of persons holding positions that first must be "designated" as senior employees by the Director of the Office of Government Ethics. The positions must involve significant decision-making or supervisory responsibility and be at a basic rate of pay of GS-17 or above or within the Senior Executive Service, or, in the case of military members, be held by active duty officers at grades 0-7 or 0-8.

(ii) Two-year ban on assisting in representation by personal presence. A former senior employee may not assist in the representation of another person by personal presence at an appearance before the Government on any particular matter in which the former employee personally and substantially participated while with the Government.

(iii) One-year ban on attempts to influence former agency. A former senior employee may not represent another person or himself in attempting to influence his own former agency on a matter pending before, or of substantial interest to, such agency. Certain communications are exempted from this provision. These include communications by former senior employees who are employed by State or local governments or by certain educational or medical institutions. Other exempt communications are those that are purely social or informational, communications on matters that are personal, including any expressions of personal views where the former employee has no pecuniary interest, and responses to a former agency's requests for information.

(3) *Scientific and technological communications.* The prohibitions discussed above do not apply with respect to communications made solely for the purpose of furnishing scientific or technological information under specific procedures.

(4) *Implementing regulations.* Detailed regulations implementing this law have been published by the Director, Office of Government Ethics.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[45 FR 9273, Feb. 12, 1980, as amended at 46 FR 25310, May 6, 1981]

§ 105-735.502 Laws applicable to GSA personnel.

There are legal prohibitions concerning the following activities which may subject present and former GSA personnel to criminal or other penalties:

(a) Aiding, abetting, counseling, commanding, inducing, or procuring another to commit a crime under any criminal statute (see 18 U.S.C. 2).

(b) Concealing or failing to report to proper authorities the commission of a felony under any criminal statute if such personnel knew of the actual commission of the crime (see 18 U.S.C. 4).

(c) Conspiring with one or more persons to commit a crime under any criminal statute or to defraud the United States, if any party to the conspiracy does any act to effect the object of the conspiracy (see 18 U.S.C. 371).

(d) Lobbying with appropriated funds (see 18 U.S.C. 1913).

(e) Disloyalty and striking (see 5 U.S.C. 7311, 18 U.S.C. 1918).

(f) Disclosure of classified information (see 18 U.S.C. 798, 50 U.S.C. 783); and disclosure of confidential information (see 18 U.S.C. 1905).

(g) Habitual use of intoxicants to excess (see 5 U.S.C. 7352).

(h) Misuse of a Government vehicle (see 31 U.S.C. 638a(c)(2)).

(i) Misuse of the franking privilege (see 18 U.S.C. 1719).

(j) Deceit in an examination or personnel action in connection with Government employment (see 18 U.S.C. 1917).

(k) Committing fraud or making false statements in a Government matter (see 18 U.S.C. 1001).

(l) Mutilating or destroying a public record (see 18 U.S.C. 2071).

(m) Counterfeiting and forging transportation requests (see 18 U.S.C. 508).

(n) Embezzlement of Goverment money or property (see 18 U.S.C. 641); failing to account for public money (see 18 U.S.C. 643); and embezzlement of the money or property of another person in the possession of an employee by reason of his Government employment (see 18 U.S.C. 654).

(o) Unauthorized use of documents relating to claims from or by the Government (see 18 U.S.C. 285).

(p) Certain political activities (see 5 U.S.C. 7321-7327 and 18 U.S.C. 602, 603, and 607).

(q) Any person who is required to register under the Foreign Agents Registration Act of 1938 (see 18 U.S.C. 219) may not serve the Government as an officer or employee. The section does not apply to Reserves who are not on active duty or who are on active duty for training, or a special Government employee in any case in which the department head certifies to the Attorney General that his or her employment by the United States Government is in the national interest.

(r) Soliciting contributions for gifts or giving gifts to superiors, or accepting gifts from subordinates (see 5 U.S.C 7351).

(s) Acceptance of excessive honorariums (see 2 U.S.C. 441(i)).

(t) Acceptance, without the consent of the Congress, of any present, employment, office or title, of any kind whatever, from any king, prince, or foreign state by a person holding any office of profit or in trust of the Federal Government. (Art. 1, Sec. 9, U.S. Constitution, and Public Law 95-105, Foreign Gifts and Decorations Act of 1966, as amended). (See 5 U.S.C. 7342) and the current issuance of GSA Order. Acceptance of gifts and decorations from foreign governments by GSA employees (OAD 7880.2).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[45 FR 9273, Feb. 12, 1980, as amended at 46 FR 25310, May 6, 1981]

§ 105-735.503 Code of ethics for Government service.

All GSA personnel shall adhere to the Code of Ethics for Government Service (Public Law 96-303, unanimously passed by the Congress of the United States on June 27, 1980, and signed into law by the President on July 3, 1980). Copies of the code shall be prominently posted throughout offices and other spaces as required by regulations of the Public Buildings Service implementing Public Law 96-303. The code provides:

(a) *Any person in Government service should:*

(1) Put loyalty to the highest moral principles and country above loyalty to persons, party, or Government department.

(2) Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

(3) Give a full day's labor for a full day's pay, giving earnest effort and best thought to the performance of duties.

(4) Seek to find and employ more efficient and economical ways of getting tasks accomplished.

(5) Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or herself or for family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

(6) Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

(7) Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

(8) Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.

(9) Expose corruption wherever discovered.

(10) Uphold these principles, ever conscious that public office is a public trust.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104)

[45 FR 9273, Feb. 12, 1980, as amended at 46 FR 25310, May 6, 1981]

Subpart 105-735.6—Violation of Post Federal Employment Prohibitions

AUTHORITY: Sec. 501(a), 92 Stat. 1867 (18 U.S.C. 207(J); 5 CFR 737.27))

SOURCE: 47 FR 6848, Feb. 17, 1982, unless otherwise noted.

§ 105-735.601 General.

(a) The Director, GSA Office of Ethics, and the Inspector General of GSA shall be promptly notified of receipt of information indicating that a former GSA employee (including a special government employee as defined in section 202, of Title 18, United States Code), has violated any of the post federal employment prohibitions contained in sections 207 (a), (b), or (c) of Title 18, United States Code.

(b) If the Inspector General of GSA, after appropriate review, determines that there is reasonable cause to believe that the former employee has violated section 207 (a), (b), or (c) of Title 18, United States Code, or the regulations implementing the foregoing statutory provisions that have been published by the Office of Personnel Management in the FEDERAL REGISTER, he shall (1) provide the Director, Office of Government Ethics and the Criminal Division, U.S. Department of Justice. and the Director, GSA Office of Ethics with the available information concerning the alleged violation, as well as copies of the pertinent agency regulations and such comments as are deemed appropriate, and (2) recommend to the Administrator, General Services, what action be taken pursuant to Part 105-735.602(a) hereunder.

(c) Any investigation or other administrative action taken by GSA in the matter shall be coordinated with the U.S. Department of Justice to avoid prejudice to possible criminal proceedings.

§ 105-735.602 Notification and opportunity for hearing.

(a) If the Department of Justice acquiesces, the following action shall be promptly taken. The Director, Office of Ethics shall notify the former employee that:

(1) The Inspector General of the General Services Administration, has recommended that, based on information received, the Administrator of General Services (hereinafter the Administrator) make a finding pursuant to section 207(j) of Title 18. United States Code, that the former employee has violated certain specified post federal employment prohibitions in section 207 (a), (b), or (c), and that the Administrator, if he makes such a finding, institute such administrative sanctions as he deems appropriate against the former employee.

(2) The specific violations that are alleged against him or her in sufficient detail to permit the preparation of an adequate defense.

(3) The former employee has the right to:

(i) present information to the Administrator or his designee in opposition to the recommendation in person, in writing, and if desired, through a designated representative, or

(ii) request a hearing before GSA's Board of Appeals (conducted by an examiner in accordance with the Board's published rules) by addressing such request to: Board of Appeals, General Services Administration, Washington, DC 20405.

(4) The hearing rights are as set forth in § 105-735.603 below.

(5) If a hearing is held, no individual who has participated in the decision to initiate the proceedings may serve as an examiner at the hearing.

(6) The period of time to be afforded for decision as to presentation of information for consideration, or for requesting a hearing.

(b) A copy of these regulations will be provided with the foregoing notification.

(c) The period of time to be afforded for notifying GSA of a decision to present information for consideration or for requesting a hearing shall be limited to 20 days from receipt of the notification described in paragraph (a) of this section, unless the former employee requests and is granted additional time before the expiration of the 20-day period.

(d) Notification or a copy thereof shall be served upon the former employee by certified mail; return receipt requested; by delivering it to the former employee or his/her attorney or agent of record either in person; or by leaving it at the office or place of business of the former employee, attorney or agent; in any other manner which has been agreed to by the former employee.

(e) Any paper other than the notification may be served upon a former employee as provided in paragraph (d) of this section or by mailing the paper by first-class mail to the former employee at Office of Ethics, GSA, the last address known to the Director, or by mailing the paper by first-class mail to the former employee's attorney or agent of record. Such mailing shall constitute complete service.

(f) Whenever the filing of a paper is required or permitted in connection with a proceeding, and the place of filing is not specified by this subpart or by rule or order of the examiner, the paper shall be filed with the Director, Office of Ethics, General Service Administration, 18th & F Streets, N.W, Washington, D.C. 20405. All papers shall be filed in duplicate.

§ 105-735.603 Hearings.

(a) If a hearing is requested and granted in accordance with § 105-735.602(c) above, the hearing shall be conducted at a reasonable time, date, and place.

(b) In setting a hearing date, the examiner shall give due regard for the former employee's need for:

(1) Adequate time to prepare a defense properly, and

(2) An expeditious resolution of allegations that may be damaging to his or her reputation.

(c) A hearing shall include, at a minimum, the following rights:

(1) To represent oneself or to be represented by counsel,

(2) To introduce and examine witnesses and to submit physical evidence,

(3) To confront and cross-examine adverse witnesses,

(4) To present oral argument, and

(5) To a transcript or recording of the proceedings, if requested in advance and ordered by the examiner.

(d) In the hearing, the agency has the burden of proof and must establish substantial evidence of a violation.

(e) The examiner shall make a written determination and recommendation to the Administrator exclusively on matters of record in the proceeding, and shall set forth in the decision all findings of fact and conclusions of law relevant to the matters at issue.

(f) Within 10 days of the date of receipt of the determination and recommendation the former employee may submit objections to the Administrator.

§ 105-735.604 Action by the Administrator.

(a) When the former employee has presented information, pursuant to § 105-735.602(a)(3)(i) above, or has sent his objections to the determination and recommendation of the examiner. The Administrator shall consider the information presented to him by the Inspector General of GSA and by or on behalf of the former employee, or (in the case of a hearing) the record or portions of the record of the proceedings as described in § 105-735.603(f) above, and together with the objectives, if any, and shall take such action thereon as he deems appropriate as set forth in paragraph (b) of this section after consultation with the Director, Office of Ethics.

(b) If the Administrator finds, after the requirements for notice and opportunity to present information or for a hearing and objections as set forth above have been satisfied, that the former employee has violated section 207(a), (b), or (c) of Title 18, United States Code, the Administrator may prohibit that person from making, on behalf of any other person (except the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to GSA on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action.

§ 105-735.605 Period of prohibition and disciplinary action.

(a) Any period of prohibited appearance or communications ordered by the Administrator shall be for a reasonable and specified period of time, commensurate with the seriousness of the conduct on which the prohibition is based, and may not exceed five years.

(b) Appropriate disciplinary action may include a private letter of:

(1) Warning,

(2) Admonition, or

(3) Reprimand.

(c) If disciplinary action is taken, the former employee shall be promptly notified that such action is subject to review in an appropriate United States District Court.

§ 105-735.606 Records.

The roster of all persons prohibited from practice before the agency shall be available to public inspection at the Office of Ethics. Other records may be disclosed upon specific request, in accordance with appropriate disclosure regulations of the agency.

CHAPTER 109—DEPARTMENT OF ENERGY PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER A—GENERAL

Part *Page*

109-1 Introduction 131

SUBCHAPTER B—[RESERVED]

SUBCHAPTER C—DEFENSE MATERIALS

109-14 National stockpile 144

SUBCHAPTER D—[RESERVED]

SUBCHAPTER E—SUPPLY AND PROCUREMENT

109-25 General 145

109-26 Procurement sources and programs 149

109-27 Inventory Management 150

109-28 Storage and distribution 157

109-29 Federal specifications and standards 158

109-30 Federal catalog system 159

SUBCHAPTER F—ADP AND TELECOMMUNICATIONS

109-35 Telecommunications 160

109-36 ADP Management 161

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

109-38 Motor Equipment Management 164

109-39 Interagency motor vehicle pools 183

109-40 Transportation and traffic management 185

SUBCHAPTER H—UTILIZATION AND DISPOSAL

109-42 Property rehabilitation services and facilities 190

109-43 Utilization of personal property 191

109-44 Donation of personal property 198

109-45 Sale, Abandonment, or destruction of personal property 199

109-46 Utilization and disposal of personal property pursuant to exchange/sale authority 206

Part *Page*
109-48 Utilization, donation, or disposal of abandoned and forfeited personal property 207
109-50 Programmatic disposal of DOE property 207

SUBCHAPTER I—[RESERVED]

SUBCHAPTER J—INDUSTRIAL PLANT EQUIPMENT

109-51 Loans of industrial plant equipment from the Defense Industrial Plant Equipment Center (DIPEC) 213

SUBCHAPTER K—GOVERNMENT PROPERTY IN THE POSSESSION OF OFFSITE CONTRACTORS

109-60 Management of Government property in the possession of offsite contractors 214

SUBCHAPTER A—GENERAL

PART 109-1 INTRODUCTION

Subpart 109-1.1—Regulation System

Sec.
109-1.100 Scope of subpart.
109-1.100-50 Definitions.
109-1.103-50 DOE-PMR temporary regulations.
109-1.104 Publication and distribution of DOE-PMR.
109-1.104-1 Publication.
109-1.104-2 Distribution.
109-1.105 Authority for DOE-PMR.
109-1.106 Applicability.
109-1.107 Consultation regarding DOE-PMR.
109-1.108 Agency implementation and supplmentation of FPMR.
109-1.109 Numbering of DOE-PMR.
109-1.110 Deviation.
109-1.110-2 Procedure.

Subpart 109-1.50—Personal Property and Supply Management Program

109-1.5000 Scope of subpart.
109-1.5001 Policy.
109-1.5002 Property and supply management program objectives.
109-1.5003 Definitions.
109-1.5004 Responsibilities and authorities.
109-1.5004-1 The Director of Procurement and Contracts Management.
109-1.5004-2 The Director of Administration.
109-1.5004-3 Heads of field offices and contracting officers.
109-1.5004-4 Heads of Headquarters organizations.
109-1.5005 Review of contractors' procedures and practices.

Subpart 109-1.51—Personal Property Management Standards and Practices

109-1.5100 Scope of subpart.
109-1.5101 Definition.
109-1.5102 Official use of property.
109-1.5103 Maximum use of property.
109-1.5104 Loan of property.
109-1.5105 Borrowing of property.
109-1.5106 Control of property.
109-1.5106-1 Identification marking of property.
109-1.5106-2 Segregation of property.
109-1.5106-3 Physical protection of property.
109-1.5106-4 Control of sensitive items.
109-1.5106-5 Physical inventories.
109-1.5107 Retirement of property.
109-1.5108 Property belonging to others.

Sec.
109-1.5109 Employee participation and development.
109-1.5110 Use of non-Government-owned property.
109-1.5148 Records and reports.
109-1.5148-1 Personal Property Management Reports.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SOURCE: 44 FR 986, Jan. 3, 1979, unless otherwise noted.

Subpart 109-1.1—Regulation System

§ 109-1.100 Scope of subpart.

This subpart establishes a system and describes procedures for promulgating Department of Energy Property Management Regulations (DOE-PMR) 41 CFR Chapter 109, within the Federal Property Management Regulations System (FPMR), 41 CFR Chapter 101, as established by the General Services Administration (GSA). These regulations implement and supplement the FPMR's governing the acquisition, utilization, management, and disposition of personal property.

§ 109-1.100-50 Definitions.

As used in these Regulations the following definitions apply:

(a) "Heads of field offices" are the heads of any officially established Departmental office located outside the Washington, D.C. metropolitan area.

(b) "Direct operations" means operations conducted by DOE personnel.

(c) Operating and on-site service contractors:

(1) Operating contractors are those which—

(i) Manage Government-owned laboratories, production plants, and research facilities located on Government-owned or leased sites, where the programs being conducted are considered of a long-term, continuing nature,

(ii) Operate Government-owned facilities located on contractor-owned or -leased sites where the programs being conducted are of a long-term, continuing nature. An example of this category would be those contracts with universities for the operation of Government-owned laboratories and facilities, located on university-owned sites, for the purpose of conducting long-term basic research programs; or

(iii) Are designated by the senior procurement offical, Headquarters, or the head of a procuring activity to be subject to the provisions of these regulations. An example would be a major cost-reimbursement contract for construction on a Government-owned or leased site.

(2) On-site service contracts are those cost-reimbursement type contracts for the performance of services of a continuing nature for DOE at Government-owned or leased sites.

(3) Single purpose contracts for the operation of process developmental units, pilot plants, and demonstration plants where the purpose is to demonstrate the viability of processes toward the goal of commercialization are not considered, unless designated, operating contracts in accordance with § 109-1.100-50(c)(1)(iii) for the purpose of this section.

(d) "Off-site contractor" means any other contractor performing work under a DOE contract.

[44 FR 986, Jan. 3, 1979, as amended at 45 FR 944, Jan. 3, 1980]

§ 109-1.103-50 DOE-PMR temporary regulations.

(a) The Department of Energy Property Management Regulations System includes a temporary-type issuance which will be used when—

(1) The regulation will remain in effect for a specific temporary period of time or is for one-time application; or

(2) Time will not permit preparation and publication of the regulations in final codified form.

(b) As a general rule, temporary-type regulations having continuing application will be converted to permanent form within 180 days after publication.

§ 109-1.104 Publication and distribution of DOE-PMR.

§ 109-1.104-1 Publication.

The DOE-PMR will be published in the FEDERAL REGISTER and will appear in the Code of Federal Regulations as Chapter 109 of Title 41, Public Contracts and Property Management. Looseleaf publications will be distributed to DOE offices.

§ 109-1.104-2 Distribution.

The responsibilities and authorities for distribution of publications in the FPMR series are as follows:

(a) The Director of Procurement and Contracts Management—

(1) Designates an official to serve as liaison with GSA;

(2) Establishes and maintains distribution patterns; and

(3) Processes DOE-PMR Handbooks for final approval and publication.

(b) The Director of Administration—

(1) Distributes publications in accordance with established distribution patterns; and

(2) Provides additional support services as required.

(c) Heads of Field Offices—

(1) Provide Director of Procurement and Contracts Management, as necessary, with field office and contractor requirements;

(2) Forward one-time requests for additional copies of specific centrally distributed publications to the Office of Administrative Services, Headquarters (AD-473); and

(3) Distribute publications in accordance with established distribution patterns.

§ 109-1.105 Authority for DOE-PMR.

The DOE-PMRs are prescribed by the Secretary or his designee and the head of any DOE Headquarters organization having functional responsibility for the Regulations being prescribed, pursuant to the authority of the Department of Energy Organization Act of 1977, (42 USC 7101 et seq.), the Federal Property and Administrative Services Act of 1949, as amended (40 USC 471 et seq.), and FPMR 101-1.108.

§ 109-1.106 Applicability.

(a) The FPMR and this DOE-PMR apply to all direct operations.

(b) Unless otherwise provided in the appropriate part or subpart, contracting officers shall assure that the FPMR and DOE-PMR Parts 109-1 through 109-51 are applied to operating and on-site service contractors.

(c) DOE-PMR Part 109-60 shall be applied to all DOE off-site contractors in possession of Government property except that it does not apply to transportation contracts, cooperative agreements, and contracts with state and local governments.

(d) The FPMR and DOE-PMR, as appropriate, shall be used by contracting officers in their review, approval, administration or appraisal of such contractor operations.

[44 FR 986, Jan. 3 1979, as amended at 45 FR 944, Jan. 3, 1980]

§ 109-1.107 Consultation regarding DOE-PMR.

DOE-PMRs shall be fully coordinated with all Departmental elements substantively concerned with the subject matter.

§ 109-1.108 Agency implementation and supplementation of FPMR.

(a) The DOE-PMRs shall include regulations deemed necessary to understand basic and significant Departmental property management policies and procedures which implement, supplement, or deviate from the FPMR.

(b) Implementing procedures, instructions, and guides which are necessary to clarify or to implement the DOE-PMR may be issued by Headquarters or field organizations, providing the implementing procedures, instructions and guides—

(1) Are consistent with the policies and procedures contained in this regulation as implemented and supplemented from time to time;

(2) To the extent practicable, follow the format, arrangement, and numbering system of this regulation; and

(3) Contain no material which duplicates, paraphrases, or is inconsistent with the contents of this regulation.

§ 109-1.109 Numbering of DOE-PMR.

(a) Where the DOE-PMRs implement the FPMR, the implementing part, subpart, section or subsection of the DOE-PMR will be numbered and captioned, to the extent possible, to correspond to the part, subpart, section, or subsection of the FPMR.

(b) Where the DOE-PMRs supplement the FPMR, the numbers 50 and up will be assigned to the parts, subparts, sections or subsections involved.

(c) Where the subject matter contained in a part, subpart, section, or subsection of the FPMR requires no implementation, the DOE-PMR will contain no corresponding part, subpart, section, or subsection number and the subject matter as published in the FPMR governs within the meaning of § 109-1.106.

§ 109-1.110 Deviation.

§ 109-1.110-2 Procedure.

(a) In individual cases, deviations from the FPMR and DOE-PMR may be authorized by the head of the Headquarters organization having functional responsibility. A supporting statement for each individual deviation, which indicates briefly the nature of the deviation, the reasons for such special action, and the Headquarters approval, shall be maintained by the Headquarters organization concerned.

(b) In classes of cases, requests for deviations from the FPMR and DOE-PMR shall be forwarded to the head of the Headquarters organization having functional responsibility, and shall be accompanied by a supporting statement. Requests shall be considered on an expedited basis and coordination with Headquarters organizations will be obtained as appropriate. Requests involving the FPMR will be considered jointly by DOE and GSA, unless, in the judgment of the Headquarters organization having functional responsibility, circumstances preclude such joint effort. In such case, the organization having functional responsibility will approve such class deviations as determined to be necessary and notify GSA.

Subpart 109-1.50—Personal Property and Supply Management Program

§ 109-1.5000 Scope of subpart.

This subpart supplements the FPMR, states DOE personal property and supply management policy and program objectives, and prescribes authorities and responsibilities of heads of Headquarters organizations, and heads of field offices exercising property management functions.

§ 109-1.5001 Policy.

It is DOE policy that a program for the management of Government personal property (sometimes referred to as personal property or as property) shall be established and maintained to meet program needs economically and efficiently and in accordance with applicable Federal statutes and Federal agency regulations.

§ 109-1.5002 Property and supply management program objectives.

The objectives of the DOE Property and Supply Management Program are to provide—

(a) A system for managing Government personal property in the custody or possession of DOE and its contractors; and

(b) Uniform principles, policies, standards, and procedures for economical and efficient management of Government personal property that are sufficiently broad in scope and flexible in nature to facilitate adaptation to local needs and various kinds of operations.

§ 109-1.5003 Definitions.

As used in these regulations, the following definitions apply:

(a) "Government personal property"—

(1) Is property which is Government-owned or -rented or -leased from commercial sources in the custody of DOE or its contractors; and

(2) Is property of any kind or type except real property; records; special source materials, which includes source materials and special nuclear material, and those other materials to which the provisions of DOE Manual Part 7400 apply, such as deuterium, enriched lithium, neptunium 237 and tritium, and atomic weapons and byproduct materials as defined in Section II of the Atomic Energy Act of 1954, as amended; enriched uranium in stockpile and storage; and petroleum being held in reserve in the Strategic Petroleum Reserve and the Naval Petroleum Reserve.

(b) "Personal property and supply management" means the implementation, development and administration of policies, programs and procedures for effective and economical receipt, storage, issue, use, control, physical protection, care and maintenance, disposal, determination of requirements and maintenance of related operating records, as appropriate, for Government personal property exclusive of the accounting records. It includes such established management functions as (1) making special surveys and studies of practices and procedures and regular staff reviews and analyses of property requirements in budget estimates, financial plans, and reports, (2) furnishing staff assistance and guidance to DOE and contractor counterparts, (3) assuring the maintenance of pertinent costs at reasonable levels, and (4) conducting periodic appraisals of performance.

§ 109-1.5004 Responsibilities and authorities.

§ 109-1.5004-1 The Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management—

(a) Develops and maintains Departmental personal property policies, standards and procedures;

(b) Develops and publishes Departmental regulations relating to personal property and supply management;

(c) Represents the Department with GSA and other agencies on matters relating to personal property and supply management;

(d) Submits Departmental personal property and supply management reports to GSA, the Congress and other Federal agencies;

(e) Provides staff assistance to Departmental organizations performing personal property and supply management functions;

(f) Conducts reviews and appraisals of Departmental personal property and supply management functions;

(g) Prepares the Departmental aircraft and motor vehicle budget; and

(h) Reviews and provides staff evaluation and support of budget proposals relating to stores inventories.

§ 109-1.5004-2 The Director of Administration.

The Director of Administration—

(a) Manages personal property for Headquarters organizations located in the Washington, D.C. Metropolitan area and for those Departmental organizations outside the Washington, D.C. Metropolitan area for which he has been assigned property management responsibilities; and

(b) Exercises responsibilities cited in § 109-1.5004-3 as they relate to functions under his management control.

§ 109-1.5004-3 Heads of field offices and contracting officers.

Heads of field offices and contracting officers—

(a) Assure effective management of Government personal property in the custody of DOE and its contractors, consistent with applicable laws and regulations;

(b) Interpret Departmental personal property management policies and procedures for their contractors and promote improved property management practices and controls;

(c) Arrange with contractors to establish effective administrative procedures, to the extent practicable and economical, which will ensure adequate physical protection and control of Government personal property, proper utilization of Government personal property, adequate supply support of approved programs, and compliance with applicable laws and regulations;

(d) Assure that new contracts or modifications, extensions, or amendments to existing contracts contain provisions that will promote efficient and economical management of Government personal property in the custody or possession of the contractors;

(e) Review and approve personal property management policies, practices and procedures of contractors and assure that they are maintained in writing on a current basis consistent with the terms of the contract and pertinent DOE regulations;

(f) Authorize the use of Government personal property for purposes other than performance of official work of the United States Government only in accordance with applicable laws;

(g) Authorize loans of Government personal property to other Government agencies and to others for official purposes;

(h) Assure that DOE employees and contractors are aware that acts of theft, illegal possession, and unlawful destruction or use of Government personal property are violations punishable under Federal law, notwithstanding disciplinary measures taken under administrative policy;

(i) Assure that DOE employees and contractors are aware that every user of Government personal property is responsible for its physical protection and for reporting the loss, theft, destruction or damage of property;

(j) Apply personal property management regulations, instructions, standards, procedures, and practices as prescribed in the FPMRs and the DOE-PMRs;

(k) Assure that responsibility for an effective property and supply management program is clearly and definitely assigned to a responsible member or members of each staff; and

(l) Provide reports on property management activities as provided in these regulations.

§ 109-1.5004-4 Heads of Headquarters organizations.

Heads of Headquarters organizations will exercise responsibilities as described in these regulations for property management activities for which they have a programmatic responsibility.

§ 109-1.5005 Review of contractors' procedures and practices.

(a) Contracting Officers shall review Contractors' procedures and practices for control and management of property as soon as practicable after approval of the contract if the contractor is to use Government personal property. Further reviews shall be made as necessary.

(b) The type and frequency of reviews will depend on—

(1) The quantity and value of Government personal property to be furnished; and

(2) The period of time the property is to be used or consumed; that is, whether or not storage and subsequent issue are involved or the property will be issued or used on the job directly following receipt.

(c) Whether the review consists of a simple desk review of procedures or a full scale onsite appraisal shall be based on the amount of property involved, conditions of usage, storage, and other pertinent factors.

Subpart 109-1.51—Personal Property Management Standards and Practices

§ 109-1.5100 Scope of subpart.

This subpart provides general guidance on DOE standards and practices to be applied in the managment of Government personal property.

§ 109-1.5101 Definition.

"Sensitive items" are those items of property which are considered to be susceptible to being appropriated for personal use or which can be readily converted to cash, for example: firearms, portable photographic equipment, binoculars, portable tape recorders, portable calculators, and portable power tools.

§ 109-1.5102 Official use of property.

Property shall be used only in the performance of official work of the United States Government, except (a) in emergencies threatening loss of life or property, or (b) as otherwise authorized by law and approval by heads of organizations having property management responsibilities, or by the contracting officer.

§ 109-1.5103 Maximum use of property.

Property and supply management practices shall assure that the best possible use is made of property. Supplies and equipment provided for DOE work shall be generally limited to those items essential for carrying out the programs of DOE effectively. Adequate staff review shall be made of operating programs to coordinate and plan furture supply activities and to assure against overstocking, waste, and improper use of property.

§ 109-1.5104 Loan of property.

(a) Property which would otherwise be out of service for temporary periods (and not excess) may be loaned to other DOE offices and contractors, other Federal agencies, and to others for official purposes. Such loans shall be covered by written agreements or memorandum receipts which shall include all terms of the loan (such as loan period, delivery time, method and payment of transportation, point of delivery and return, conditions of use, responsibilities of the borrower for condition of property on return, inspection requirements, etc.) that may be required to ensure proper control and protect DOE's interest. The loan period should not exceed one year, but may be renewed.

(b) Requests for loan by foreign Governments and other foreign organizations shall be submitted to the Office of Assistant Secretary for International Affairs, for approval, with a copy to the cognizant Headquarters program office.

§ 109-1.5105 Borrowing of property.

(a) Offices and contractors are encouraged to borrow property within DOE to further DOE programs. Property classified as "Equipment Held For Future Projects (EHFFP)" or as "In Standby" should be reviewed by those receiving availability inquiries for short-term loans (one year or less). Borrowing of Government property from other Federal agencies is also encouraged when required for short periods of time. Such transactions shall be be covered by written agreements which include all the terms of the transaction.

(b) In determining whether it is practical and economical to borrow property, consideration shall be given to suitability, condition, value, extent and nature of use, extent of availability, portability, cost of transportation, and other similar factors.

§ 109-1.5106 Control of property.

§ 109-1.5106-1 Identification marking of property.

(a) Identification marking of property by numbering may be used where it has been administratively determined to be sufficiently advantageous to justify the cost.

(b) All capitalized Government property shall be permanently marked to identify it as U.S. Government property. Other property susceptible to unauthorized personal use should be considered for marking for control purposes. Marking may be accomplished by any means which will produce a permanent marking and which is most adaptable to the particular item of property.

(c) To the extent practiable and ecomomical, markings shall be removed prior to disposal outside of DOE, or additional markings may be added to indicate such disposal.

(d) Property which by its nature cannot be marked is exempted from this requirement. Where such Government property is in the custody of contractors it should not be commingled with contractor-owned property unless it is administratively determined by the contracting officer to be advantageous to the Government.

§ 109-1.5106-2 Segregation of property.

Ordinarily, provisions shall be made for the contractor to keep Government property segregated from contractor-owned property. Commingling of Government-owned and contractor-owned property may be allowed only when—

(a) The segregation of the property would materially hinder the progress of the work, i.e., segregation is not feasible for reasons such as small quantities, lack of space, or increased costs; and

(b) Control procedures are adequate, i.e., the Government property is specifically marked or otherwise identified as being Government property.

§ 109-1.5106-3 Physical protection of property.

Controls such as property pass systems, memorandum records, regular or intermittent gate checks, marking of tools, and perimeter fencing shall be established as required to prevent loss, theft, or unauthorized movement of property from the premises on which such property is located.

§ 109-1.5106-4 Control of sensitive items.

(a) Controls shall be established over the acquisition, storage, issue, use, and return of sensitive items of property. These controls should be applied with judgment and should take into consideration the dollar value of the items to be controlled and costs of administration.

(b) A list of sensitive items shall be maintained for items considered to require special controls before and after issue. Determination of specific sensitive items shall be a matter for management judgment at individual locations.

(c) Written procedures shall be established for control of sensitive items. Specific procedures to be considered for control before and after issue include—

(1) Approval of purchase requisitions or issue documents at an appropriate supervisory level prior to purchase or issue;

(2) Establishment of administrative controls in the central receiving and warehousing department. Such controls could include extraordinary physical protection, guidance for receiving and warehousing personnel as to procedures for protection, and a current listing of sensitive items;

(3) Establishment and maintenance of appropriate property management records, including all necessary information for adequate functional control;

(4) Requirements for tagging and identification;

(5) Use of memorandum receipts or custody documents at time of assignment or change in custody;

(6) Establishment of custodial responsibilities describing—

(i) Need for extraordinary physical protection;

(ii) Requirement for prompt reporting of apparent loss, damage or destruction;

(iii) Requirement to return items in condition beyond economical repair to an appropriate organizational element;

(iv) Requirement for promptly reporting changes in custody or extended loans;

(v) Reminder of prohibition of use for other than official purposes, and penalties for misuse;

(vi) Requirement for effective physical and administrative control of sensitive items assigned for general use within an organizational unit as appropriate to the type of property and the circumstances; and

(vii) A clear definition of the extent of responsibility or financial accountability, depending on contractor policy.

(7) Requirement for annual physical inventory;

(8) Requirement for prompt and thorough investigation of losses;

(9) Requirement for an employee transfer or termination checkout procedure and examination and adjustment of records; and

(10) Reference to other property and supply management procedures which, through experience and independent audit, have demonstrated effective physical and administrative control over sensitive items.

§ 109-1.5106-5 Physical inventories.

(a) Physical inventories shall be conducted at all DOE and contractor locations. The physical inventory shall be conducted consistent with approved procedures and generally accepted accounting procedures.

(b) The frequency of physical inventories shall be as follows:

(1) Moveable capital equipment—not less frequently than every two years.

(2) Sensitive items—annually.

(3) Stores inventories—annually.

(4) Precious metals—semi-annually.

(c) Adjustments will be made to the control records and all significant discrepancies shall be investigated.

(d) Full use should be made of accounting records and reports.

§ 109-1.5107 Retirement of property.

When Government property is worn out, lost, stolen, destroyed, abandoned, or damaged beyond economical repair, it shall be listed on a retirement work order. A full explanation shall be supported by an investigation, if necessary, as to the date and circumstances surrounding loss, theft, destruction, abandonment, or damage. The retirement work order shall be signed by the responsible official initiating the report and reviewed and approved by an official at least one supervisory echelon above the official initiating the report.

§ 109-1.5108 Property belonging to others.

Procedures shall be established which will provide for no less attention to the management of property belonging to other Federal agencies in the posssession or custody of DOE orits contractors than for DOE property.

§ 109-1.5109 Employee participation and development.

Full advantage shall be taken of suitable methods for stimulating employee participation and cooperation in carrying out an effective and economical program of property and supply management. Some examples of effective methods are (a) indoctrination of new employees and others who have access to or use property, (b) the use of incentive award plans to promote interest, (c) the use of visual aids such as posters, plant publications, outdoor signboards, and displays to keep employees informed as to progress and to remind them of their responsibilities, and (d) training of employees in specialty fields.

§ 109-1.5110 Use of non-Government-owned-property.

Personal property, title to which is vested in a DOE employee, an employee of a DOE contractor, or in any person or organization not under contract or subcontract to DOE, shall not be installed in, affixed to, or otherwise made a part thereof, of any Government-owned personal or real property. This restriction does not apply to the use and installation of privately owned decorative items or memorabilia to the workplace, provided that the structure or safety of the facility is not thereby degraded.

§ 109-1.5148 Records and reports.

(a) Inventory records and reports will be maintained and will serve as a basis for (1) effecting maximum utilization of available property, including excess, (2) prompt identification and reporting of excess property, (3) maximizing effective physical protection of property, and (4) preparation of special and recurring reports. Full use will be made of accounting records and reports to avoid duplication.

(b) Property management reports which require input from the DOE field offices or from Headquarters organizations exercising property management responsibilities, and Financial Information Subsystems generated reports, are listed in § 109-1.5148-1.

Best Available Copy

§ 109-1.5148-1 Personal property management reports.

Personnel Property Management Reports

I. Property and Equipment

Report title	Form No. (No. of Cys.)	Frequency	Submitted to	Due at HQ	Narrative analysis required	References	Comments
1. Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority.	Letter (1)	Annually	HQ PRPM	Nov. 30	No	FPMR 101-46.407 DOE-PMR 109-46.406.	The annual Departmental report to GSA is submitted by HQ PRPM.
2. Changes in Plant and Equipment and Accumulated Depreciation—Supporting Details.	DOE Form CR-84-31 (3).	Annually	HQ CR	Sept. 30 + 32 work days.	Yes	DOE Order 2200, Chapter XI.	
3. Plant and Equipment by Facilities	DOE Form CR-84-34 (3).	Annually	HQ CR	Sept. 30 + 32 work days.	Yes	DOE Order 2200, Chapter XI.	
4. Plant and Equipment by Location	DOE Form CR-84-35 (3).	Annually	HQ CR	Sept. 30 + 32 work days.	Yes	DOE Order 2200, Chapter XI.	
5. Plant and Equipment Facilities in Standby and Maintenance Costs.	DOE Form CR-85-1 (3).	Annually	HQ CR	Sept. 30 + 32 work days.	Yes	DOE Order 2200, Chapter XI.	
6. Utilization and Disposal of Excess and Surplus Personal Property.	DOE Form CR-85-2 (3).	Annually	HQ CR	Sept. 30 + 32 work days.	Yes	FPMR 101-43.4701 DOE-PMR 109-43.4701 DOE Order 2200, Chapter XI.	The annual Departmental report to GSA (SF 121) is submitted by HQ PRPM.
7. Excess Personal Property Furnished to Non-Federal Recipients.	Letter	Annually	HQ PRPM	Nov. 30	No	FPMR 101-43.4701 DOE-PMR 109-43.4701.	The annual Departmental report to GSA is submitted by HQ PRPM.
8. Disposal of Foreign Excess Property	DOE Form CR-85-3 (3).	Annually	HQ CR	Sept. 30 + 32 work days.	Yes	FPMR 101-43.4701 DOE-PMR 109-43.4701 DOE Order 2200, Chapter XI.	The annual Departmental report to Congress is submitted by HQ PRPM.
9. Summary of Excess Property Received from Other Agencies.	DOE Form CR-85-4 (3).	Annually	HQ CR	Sept. 30 + 32 work days.	No	DOE Order 2200, Chapter XI.	
10. Annual Wastepaper Report		Annually	HQ PRPM	Oct. 30	No	40 CFR 246.100g	

Best Available Copy

Personnel Property Management Reports—Continued

II. Supply

Report title	Form No. (No. of Cys.)	Frequency	Submitted to	Due at HQ	Narrative analysis required	References	Comments
1. Direct Labor Costs of Stores Inventory Warehousing Activities.	DOE Form CR-85-7 (3).	Annually	HQ CR	Sept. 30 + 32 work days.	Yes	DOE Order 2200, Chapter XI.	Information for the annual Supply Activity Report submitted to GSA by HQ PRPM.
2. Precious Metals	Letter (1)	Annually	HQ PRPM	Oct. 30	No	FPMR 101-42.301-2 DOE-PMR 109-42.301-2.	The annual Departmental report to GSA is submitted by HQ PRPM.

III. Motor Vehicles

Report title	Form No. (No. of Cys.)	Frequency	Submitted to	Due at HQ	Narrative analysis required	References	Comments
1. Agency Report of Motor Vehicle Data	SF 82	Annually	HQ PRPM	Sept. 30 + 21 work days.	Yes	FPMR 101-38.1 DOE-PMR 109-38.100-1.	The annual Departmental report to GSA (SF 82) is submitted by HQ PRPM.
1a. Agency Report of Sedan Data	SF 82-d	Annually	HQ PRPM	Sept. 30 + 21 work days.	Yes	FPMR/TR G-22 DOE-PMR 109-38.100-1.	The annual Departmental report to GSA (SF 82d) is submitted by HQ PRPM.
2. Supplemental (Motor Vehicle) Data Reports.		Annually	HQ PRPM	Sept. 30 + 21 work days.	No	DOE-PMR 109-38.100-1.	
2a. Acquisitions and Disposals by Transfer	DOE-PMR 109-38.4950.	Annually	HQ PRPM	Sept. 30 + 21 work days.	No	DOE-PMR 109-38.100-1.	
2b. Special Purpose Vehicles	DOE-PMR 109-38.4951.	Annually	HQ PRPM	Sept. 30 + 21 work days.	No	DOE-PMR 109-38.100-1.	
2c. Age and Mileage Analysis	SF82-b DOE-PMR 109-38.4952.	Annually	HQ PRPM	Sept. 30 + 21 work days.	Yes	DOE-PMR 109-38.100-1.	
3. Cross-Servicing Arrangements for Motor Vehicle Fuel and Oil.	Letter	Semi-Annually	HQ PRPM	Oct. 10 April 10	No	GSA Bulletin G-36 DOE-PMR 109-38.53.	The semi-annual Departmental report to GSA is submitted by HQ PRPM.

Best Available Copy

Personnel Property Management Reports—Continued

III. Motor Vehicles—Continued

Report title	Form No. (No. of Cys.)	Frequency	Submitted to	Due at HQ	Narrative analysis required	References	Comments
4. Unused Passenger Vehicle Replacement Authorizations.	Letter	Annually	HQ PRPM	June 15	No	DOE-PMR 109-38.5101-5(b).	
5. Geographical Distribution of Motor Vehicles.	Letter	Annually	HQ PRPM	Feb. 13	No	Department of Transportation.	The annual Departmental report to DOT is submitted by HQ PRPM.
6. Report of Exempted Motor Vehicles	Letter	On Request	HQ PRPM	On Request	Yes	FPMR 101-38.607 DOE-PMR 109-38.607.	The requested Departmental report is submitted to GSA by HQ PRPM.
7. Annual Plan for Acquisition of Fuel Efficient Passenger Automobiles.	Letter	Annually	HQ PRPM	Nov. 1	No	Executive Order 12003, FPMR Temporary Bulletin G-32, DOE-PMR 109-38.1305.	The Departmental consolidated plan is submitted to GSA by HQ PRPM.

IV. FIS Generated Reports

Report title	Form No. (No. of Cys.)	Frequency	Submitted to	Due at HQ	Narrative analysis required	References	Comments
1. Analysis of Stores	DOE 84-20				Yes	DOE Order 2200, Chapter XI.	Reports 1 and 2 provide data for the Departmental annual Supply Activity Report to be submitted to GSA (GSA 1473) by HQ PRPM Reference: FPMR 101-25.48 DOE-PMR 109-25.48.
2. Summary of Current Use and Standby Stores Inventory Transactions.	DOE 84-21				Yes	DOE Order 2200, Chapter XI.	
3. Changes in Plant and Equipment and Accumulated Depreciation.	DOE 84-30				No	DOE Order 2200, Chapter XI.	
4. Completed Plant and Accumulated Depreciation by Type.	DOE 84-32				No	DOE Order 2200, Chapter XI.	

Personnel Property Management Reports—Continued

IV. FIS Generated Reports—Continued

Report title	Form No. (No. of Cys.)	Frequency	Submitted to	Due at HQ	Narrative analysis required	References	Comments
5. Equipment Held for Future Projects					Yes	DOE Order 2200, Chapter XI DOE-PMR 109-27.5109.	

Best Available Copy

SUBCHAPTER B—[Reserved]

SUBCHAPTER C—DEFENSE MATERIALS

PART 109-14—NATIONAL STOCKPILE

Sec.
109-14.000 Scope of part.

Subpart 109-14.1—Transfer of Excess Strategic and Critical Materials to the National Stockpile

109-14.103-1 General requirements of reporting.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-14.000 Scope of part.

This part implements and supplements FPMR Part 101-14, National Stockpile.

[44 FR 986, Jan. 3, 1979]

Subpart 109-14.1—Transfer of Excess Strategic and Critical Materials to the National Stockpile

§ 109-14.103-1 General requirements of reporting.

Holding activities shall submit reports of storage materials determined to be excess to their needs, through appropriate administrative channels, to the Procurement and Contracts Management Directorate (PR-221) for determination of Departmental requirements and, if appropriate, for further reporting to GSA as required by FPMR 101-14.103-1.

[44 FR 986, Jan. 3, 1979]

SUBCHAPTER D—[Reserved]

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 109-25—GENERAL

Sec.
109-25.000 Scope of subchapter.
109-25.001 Scope of part.

Subpart 109-25.1—General Policies

109-25.101-1.50 Definitions.
109-25.101-3 Supply through consolidated purchase for direct delivery to use points.
109-25.109 Laboratory and research equipment.
109-25.109-1 Identification of idle equipment.
109-25.109-2 Equipment pools.

Subpart 109-25.3—Use Standards

109-25.302 Office furniture, furnishings and equipment.
109-25.302-1 Executive type office furniture and furnishings.
109-25.302-2.50 Filing cabinets and equipment.
109-25.302-3 Electric typewriters.
109-25.304 Additional systems and equipment for passenger motor vehicles.
109-25.350 Use of furnishings and household goods in Government personnel quarters.
109-25.351 Furnishing of Government clothing and individual equipment to employees.

Subpart 109-25.4—Replacement Standards

109-25.403 Office machines.
109-25.405 Materials handling equipment.

Subpart 109-25.48—Reports

109-25.4800 Scope of subpart.
109-25.4800-50 Applicability.

Authority: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

Source: 44 FR 996, Jan. 3, 1979, unless otherwise noted.

§ 109-25.000 Scope of subchapter.

This subchapter implements and supplements FPMR Subchapter E, Supply and Procurement.

§ 109-25.001 Scope of part.

This part implements and supplements FPMR Part 101-25, General, and provides cross-references to the DOE Procurement Regulations (DOE-PR) where appropriate.

Subpart 109-25.1—General Policies

§ 109-25.101-1.50 Definitions.

As used in this subpart, the following definitions apply:

(a) "Equipment" consists of those items having an anticipated service life of one year or more regardless of use or source of funding.

(b) "Equipment pool" is a formally designated collection of equipment, generally functionally associated, which is available for loan or temporary use. The pool may be a physical collection of equipment or may be a record system which provides identification, location and availability information on equipment available for loan or temporary use.

(c) "Equipment in storage" is all equipment not in use, whether stored in formal storage areas, stored in or adjacent to work areas, held for future projects, or retained in standby or abandoned facilities.

§ 109.25.101-3 Supply through consolidated purchase for direct delivery to use points.

See DOE-PR 9-5.5206-19, Procurement of gas masks and canisters.

§ 109-25.109 Laboratory and research equipment.

(a) The provisions of FPMR 101-25.109 and § 109-25.109 shall apply to all types of equipment and not be limited to laboratory and research equipment.

(b) The provisions of FPMR 101-25.109 and § 109-25.109 apply to all DOE field offices and contractors, and are not limited to Federal laboratories.

§ 109-25.109-1 Identification of idle equipment.

(a) See § 109-25.109(b).

(b) As a minimum, management walk-through inspections shall be scheduled to provide for coverage of all operating and storage areas at least once every two years to identify idle and unneeded equipment. The frequency of management walk-through inspections may vary with the operation or area involved. A report of walk-throughs conducted, including participants, areas covered, findings, recommendations, and results achieved, shall be submitted to the head of the laboratory or other facility involved. Equipment identified as idle and unneeded shall be redeployed, reassigned, placed in equipment pools or declared excess, as appropriate.

(c) In accordance with FPMR 101-25.109-1(c), members of management walk-through inspection teams should be appointed by the head of the laboratory or other DOE or contractor facility.

(d) Heads of field offices and contracting officers or their designated representatives shall periodically review walk-through procedures and practices of organizations under their jurisdiction to evaluate their effectiveness. This review should include actual walk-through inspections of representative DOE or contractor activities.

§ 109-25.109-2 Equipment pools.

(b) Equipment pools shall be established where practicable to obtain optimum utilization of equipment. The number and types of pools to be established will depend upon local circumstances. In addition to those provided in FPMR 101-25.109-2, factors to be considered are types of equipment, number and location of potential users and distances involved.

(c) Surveys of equipment holdings should be conducted periodically to determine those items which are suitable for pooling. Criteria for placing an item in a pool should include (but not be limited to) the following: the item is suitable for use by more than one individual or group; its use is intermittent rather than full time; it has a degree of portability; and, it has sufficient cost or value to merit controlling. It is anticipated that items pooled would vary from one activity to another due to local conditions, and each activity should develop its own criteria for items to be pooled. Items to be considered for pooling include (but are not limited to) certain types of measuring and recording equipment, pumps, electric motors, photographic equipment, portable tools, microscopes, portable radios, power supplies, amplifiers, business machines, radiation detection instruments, and construction and automotive equipment. Where feasible, equipment pools should be combined with existing calibration and maintenance services to foster use and control of pooled equipment.

(d) Records of usage shall be maintained to permit the evaluation of need for quantities and types of equipment in pools. Reviews of usage should be conducted periodically (at least annually) to eliminate items which are no longer required. Heads of field offices and contracting offices shall require laboratories or other DOE or contractor facilities to submit to them annually the report on the use and effectiveness of equipment pooling required by FPMR 101-25.109-2(d).

(e) Heads of field offices and contracting offices shall require periodic independent reviews of equipment pool operations as required by FPMR 101-25.109-2(e).

Subpart 109-25.3—Use Standards

§ 109-25.302 Office furniture, furnishings, and equipment.

(a) The criteria contemplated in FPMR 101-25.302 shall be established by the Director of Administration for the DOE Headquarters, and heads of field offices shall establish criteria for their offices, consistent with FPMR 101-25.302-1 and this subpart. Office furniture, furnishings, and equipment shall be limited to that required for immediate needs, considering such factors as ordering lead time, potential emergency needs and economical ordering quantities. Items used only occasionally should be pooled within an office when and as necessary. Requirements shall be met to the fullest extent practicable and economical from available excess or by rehabilitation or repair. A distinction should be made between the requirements of organizational elements concerned with purely administrative functions and those of a technical, scientific, or specialized nature.

(b) Contractors should be encouraged to limit executive-type furniture and furnishings to contractor personnel who organizationally are in positions that are similar or comparable to DOE positions authorized to use executive type office furniture as provided in FPMR 101-25.302-1, when such action will effect economy without decreasing efficiency.

§ 109-25.302-1 Executive type office furniture and furnishings.

The Director of Administration for Headquarters activities and heads of field offices or their designees are authorized to make the determination contemplated by FPMR 101-25.302-1.

§ 109-25.302-2.50 Filing cabinets and equipment.

In addition to the use standards prescribed in FPMR 101-25.302-2, the following standards are applicable:

(a) Filing equipment:

(1) Letter-size cabinets shall be used for letter-size records. When legal- and letter-size records are interfiled and less than 20% are legal-size, the legal-size papers are to be folded and the entire collection placed in letter-size cabinets. When more than 20% of the records to be filed consist of legal-size papers, legal-size cabinets may be used.

(2) Cabinet types appropriate for use in DOE:

(i) General purpose cabinets (noninsulated and nonsecurity) are used for unclassified records. General purpose cabinets equipped with a key lock may be used to house unclassified sensitive records requiring access restrictions. Key lock cabinets are not tamper proof nor do they meet security standards for the protection of classified material.

(ii) Security cabinets are equipped with a three-way combination lock and are designed to provide the protection required for storage of classified records.

(iii) Insulated cabinets designed to protect their contents from fire shall be used for irreplaceable records having an unusual importance or major value when stored in non-fire-resistant structures. Insulated cabinets shall not normally be used in fire-resistant buildings or structures equipped with fire detection devices, an approved sprinkler system or a connection to a source of adequate fire department response. Buildings equipped with automatic sprinkler systems generally are considered to provide adequate protection for records outside the immediate area of fire origin. Where records are considered irreplaceable, and duplicate copies are not available at another location, insulated cabinets may be required for primary fire protection.

(3) Shelf files should be considered instead of filing cabinets for file collections of 20 or more cubic feet because they provide a greater concentration of files per square foot of floor space at less cost. Shelf files accommodate with equal facility almost all varieties of files from those arranged by number or name to subjectively arranged correspondence files.

(4) The metal transfer case, a single file drawer enclosed as a complete unit, may be bolted together to form stacks of any convenient height. Transfer cases are not recommended for general office use, but may be used in inactive storage areas or in offices where usage may be of relatively short term, such as field construction sites.

(5) Such items as lateral files (as used in the office landscaping concept), hanging files, safes, map files, film cabinets (both x-ray and microfilm), and visible files are special purpose equipment designed to fulfill specific filing requirements. Each potential application of special purpose equipment should be fully evaluated prior to purchase.

(6) The proposed use of power files requires a cost-benefit study due to the extraordinary cost of this equipment. This study must include an analysis of various alternatives to the application in addition to any benefits to be derived from its procurement.

All such benefits accruing to the agency and other information documenting the decision to obtain this equipment must be made a matter of record.

(b) To attain the maximum use of low-cost filing equipment such as shelf files for housing collections of classified records, as well as increased utilization of manpower, consideration should be given to the use of security-approved vaults or vault-type rooms in lieu of acquiring additional security cabinets.

§ 109-25.302-3 Electric typewriters.

The Director of Administration for Headquarters and heads of field offices or their designees are authorized to approve exceptions to the criteria contained in FPMR 101-25.302-3.

§ 109-25.304 Additional systems and equipment for passenger motor vehicles.

(a) If an item is determined to be essential and the guidelines in FPMR 101-25.304 cannot be met, or the required item is not shown in Federal Standard 122, requisitions, accompanied by supporting justifications, shall be submitted to the Procurement and Contracts Management Directorate (PR-221), for further coordination with the Commissioner, Federal Supply Service, General Services Administration, prior to procurement.

(b) See FPMR 101-26.501, "Purchase of new motor vehicles," and DOE-PR 9-5.5201-2, "Consolidated purchase of new vehicles by General Services Administration."

§ 109-25.350 Use of furnishings and household goods in Government personnel quarters.

The Director of Administration for Headquarters and heads of field offices and other contracting officers have the authority to authorize the use of furnishings and household goods in Government personnel quarters.

§ 109-25.351 Furnishing of Government clothing and individual equipment to employees.

(a) Government-owned clothing and individual equipment may be furnished employees under the circumstances indicated below. Care should be exercised to avoid the purchase and furnishing of clothing and individual equipment to be fitted to an employee who may soon be separated from service or permanently assigned to other duties.

(b) Special clothing and individual equipment for the protection of personnel may be furnished employees. Protection as used in this subparagraph means protection from physical injury or occupational disease.

(c) Articles of clothing and individual equipment may be furnished employees when the items are such that the employee could not reasonably be required to furnish them as a part of their personal clothing and equipment necessary to enable them to perform the regular duties of the position to which they are assigned or for which their services were engaged.

(This section does not apply to provision of uniforms or uniform allowances under the Federal Employees Uniform Allowances Act of 1954, as amended.)

Subpart 109-25.4—Replacement Standards

§ 109-25.403 Office machines.

The Director of Administration for Headquarters and heads of field offices or their designees are authorized to approve replacement of office machines under the conditions cited in FPMR 101-25.403(c).

§ 109-25.405 Materials handling equipment.

The Director of Administration for Headquarters, heads of field offices and other contracting officers or their designees are authorized to approve replacement of materials handling equipment under the conditions cited in FPMR 101-25.405(b).

Subpart 109-25.48—Reports

§ 109-25.4800 Scope of subpart.

This subpart supplements information concerning the reporting of supply management data to GSA as contained in FPMR 101-25.48, 101-

25.49, 101-25.4902-1473, and 101-25.4902-1473-1.

§ 109-25.4800-50 Applicability.

The provisions of FPMR Part 101-25.48 and 101-25.49 and this subpart apply only to those DOE direct operations and contractors controlling Government-owned stores inventories. However, based on an agreement with GSA, the DOE Supply Activity Report is prepared at Headquarters from supply management data available in DOE's financial reports and is sent to GSA by the Director of Procurement and Contracts Management. Therefore, no additional reports are required from those field organizations or contractors reporting under the DOE financial reporting system. Those activities with stores operations which do not report under the DOE financial reporting system shall submit Supply Activity Reports to the Procurement and Contracts Management Directorate (PR-221) by November 15 for inclusion in the Departmental report.

PART 109-26—PROCUREMENT SOURCES AND PROGRAMS

Sec.

109-26.000 Scope of part.
109-26.001-50 Applicability.

Subpart 109-26.2—Federal Requisitioning System

109-26.201 General.
109-26.205-2 Assignment of codes.

Subpart 109-26.4—Purchase of Items From Federal Supply Schedule Contracts

109-26.406 U.S. Government National Credit Card for use in obtaining service station deliveries and services.
109-26.406-1 General.

Subpart 109-26.5—GSA Procurement Programs

109-26.501 Purchase of new motor vehicles.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SOURCE: 44 FR 998, Jan. 3, 1979, unless otherwise noted.

§ 109-26.000 Scope of part.

This part implements and supplements FPMR Part 101-26, Procurement Sources and Programs.

§ 109-26.001-50 Applicability.

FPMR Part 101-26 and this part are applicable to contractors to the extent that Government supply sources are made available. For DOE policy on the use of Government supply sources by contractors, see DOE-PR Part 9-5 and 9-50.5.

Subpart 109-26.2—Federal Requisitioning System

§ 109-26.201 General.

The GSA Handbook entitled "FEDSTRIP Operating Guide" and revisions thereto, as discussed in FPMR 101-26.201, are distributed within DOE based on the standard distribution pattern established by the Procurement and Contracts Management Directorate. Requests for additional copies or a change in the distribution pattern should be coordinated with the local DOE publications control office.

§ 109-26.205-2 Assignment of codes.

Applications for FEDSTRIP Activity Address Codes and Contractor authorizations for use of GSA supply sources shall be forwarded to the Procurement and Contracts Management Directorate (PR-221) for review and further processing to GSA for assignment.

Subpart 109-26.4—Purchase of Items From Federal Supply Schedule Contracts

§ 109-26.406 U.S. Government National Credit Card for use in obtaining service station deliveries and services.

§ 109-26.406-1 General.

The Director of Administration and heads of field offices or their designees may authorize the use of U.S. Government National Credit Cards as contemplated in FPMR 101-26.406-1.

Subpart 109-26.5—GSA Procurement Programs

§ 109-26.501 Purchase of new motor vehicles.

See DOE-PR 9-5.5201-2, "Consolidated purchase of new vehicles by General Services Administration."

PART 109-27—INVENTORY MANAGEMENT

Sec.
109-27.000 Scope of part.
109-27.001-50 Objectives.
109-27.001-51 Definitions.
109-27.001-52 Evaluation of stores inventory management.

Subpart 109-27.1—Stock Replenishment

109-27.102 Economic order quantity principle.
109-27.102-1 Applicability.

Subpart 109-27.2—Management of Shelf-Life Materials

109-27.202 Applicability.

Subpart 109-27.3—Maximizing Use of Inventories

109-27.302 Applicability.

Subpart 109-27.4—Elimination of Items from Inventory

109-27.402 Applicability.

Subpart 109-27.5—Return of GSA Stock Items

109-27.500-50 Policy.

Subpart 109-27.50—Inventory Management Policies, Procedures and Guidelines

109-27.5001 Scope of subpart.
109-27.5002 Stock control.
109-27.5002-1 General.
109-27.5002-2 Criteria.
109-27.5002-3 Construction inventories.
109-27.5003 Guide levels for construction inventories.
109-27.5004 Sub-stores.
109-27.5005 Shop, bench, cupboard or site stock.
109-27.5006 Standardization of stores items.
109-27.5007 Stores catalogs.
109-27.5008 Physical inventories
109-27.5008-1 Procedures.
109-27.5008-2 Inventory adjustments.
Sec.
109-27.5009 Control of drug substances and potable alcohol.
109-27.5010 Containers returnable to vendors.
109-27.5011 Identification marking of metals and metal products.
109-27.5011-1 General.
109-27.5011-2 Exception.
109-27.5011-3 Federal standards applicable to marking.

Subpart 109-27.51—Management of Equipment Held for Future Projects

109-27.5100 Scope of subpart.
109-27.5101 Definition.
109-27.5102 Other exclusions.
109-27.5103 Objective.
109-27.5104 Storage.
109-27.5105 Retention.
109-27.5106 Justification and review procedures.
109-27.5107 Field organization review.
109-27.5108 Utilization.
109-27.5109 Reports.

Subpart 109-27.52—Management of Spare Equipment

109-27.5200 Scope of subpart.
109-27.5201 Definition.
109-27.5202 Exclusions.
109-27.5203 Classification.
109-27.5204 Management policy.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SOURCE: 44 FR 998, Jan. 3, 1979, unless otherwise noted.

§ 109-27.000 Scope of part.

This part implements and supplements FPMR Part 101-27, Inventory Management, but excludes atomic weapons or byproducts and source or special nuclear materials as defined in the Atomic Energy Act of 1954, as amended, enriched uranium in stockpile storage, and petroleum held in reserve in the Strategic Petroleum Reserve and the Naval Petroleum Reserve.

§ 109-27.001-50 Objectives.

Necessary inventories shall be established and maintained at reasonable levels, consistent with program requirements. They shall be managed and controlled in the most practicable and economical manner consistent with program needs, applicable laws and regulations and the following objectives:

(a) Provide materials and supplies as needed to meet DOE requirements.

(b) Maintain reasonable inventory levels.

(c) Provide adequate safeguards for protection.

(d) Maintain adequate quantity controls for effective management over all inventories, including those not under financial controls.

(e) Assure maximum efficient utilization and avoid waste.

(f) Maintain an economical operation.

(g) Standardize inventories to the greatest extent practicable.

§ 109-27.001-51 Definitions.

As used in this part the following definitions apply:

(a) "Construction inventories" are supplies, materials and parts held for exclusive use on construction projects.

(b) "Economic order quantity (EOQ)" means the size of the order which produces a level at which the combined costs of procuring and carrying inventory are at a minimum.

(c) "Expensed inventories" are items for which the cost is charged to operations and are not under financial control.

(d) "Inventories" are stocks of stores, construction, special reactor and other special materials, supplies and parts used in support of DOE programs.

(e) "Inventory level," usually expressed in the number of months supply on hand based on anticipated usage, is the maximum amount of supplies authorized to be on hand and due-in less any amount due-out.

(f) "Inventory management" means the effective use of methods, procedures and techniques for recording, analyzing, evaluating, adjusting, and regulating inventories in accordance with established policy. The following related functions are included:

(1) Providing adequate protection against misuse, theft, and misappropriation.

(2) Providing proper analyses of quantities to determine their turnover so that only minimal obsolescence losses will be encountered.

(3) Providing accurate analyses of quantities to determine requirements and adequate inventory levels to meet program schedules.

(4) Providing adequate and accessible storage facilities and services based upon analyses of program requirements so that a minimum and economical amount of time is required to service the program.

(g) "Other special materials" include precious metals and other rare materials having a very high monetary value in relation to volume or weight, special barrier materials, and any others that have been specifically approved by the Controller.

(h) "Physical inventory" means the process of counting the quantities of items on hand and reconciling quantities counted with the quantities shown on control records.

(i) "Quantity control" means the management of inventories through control of levels, determination of requirements, and replenishment of stock.

(j) "Safety stock" is that portion of inventories under stock control carried for protection against stock depletion due to an increase in demand or when lead time is greater than anticipated.

(k) "Shop, bench, cupboard or site stock" is a collection or store of materials located at or near the point of use.

(l) "Special reactor materials" include special materials approved for research and for use in reactors but not generally available through the usual channels in sufficient quantity because of limited commercial production applications.

(m) "Standardization" is the reduction of stores inventories to the least practicable variety of sizes, shapes and materials compatible with program needs.

(n) "Stock record" is a device for collecting, storing, and providing historical data on recurring transactions for each line item of inventory. The stock record of a line item may be a visible register or transactions recorded by hand or by machine for that item, or it may be the input, output, stored data, or the corresponding print-out of

Best Available Copy

such data representing transactions on the item in an electronic data processing system.

(o) "stores catalog" means a listing of stock items for use in requisitioning supplies and materials.

(p) "Sub-store" is a geographically removed part of the main store's operation conducted as a subordinate element of it and subject to the same management policies and inventory controls.

§ 109-27.001-52 Evaluation of stores inventory management.

(a) Comparison of investment in stores inventories to annual issues shall be made to assure that minimum inventories are maintained for the support of programs. This comparison may be expressed either as a turnover ratio (issues divided by dollar value of inventory) or in the average number of months' supply on hand. Turnover or number of months' supply is calculated only on "current-use" (for issue) inventory.

(b) Performance goals, in terms of months' investment or turnover ratio, are established for each stores using activity and shall take into account the application of EOQ and other management practices. The evaluation of stores inventory management at each level shall take into account the current number of months' investment or turnover ratio, particularly in relation to the goal established for each such activity.

Subpart 109-27.1—Stock Replenishment

§ 109-27.102 Economic order quantity principle.

§ 109-27.102-1 Applicability.

Procedures and practices shall be established for replenishment of stock items having recurring demands to minimize costs involved. Guidelines for implementing the EOQ principle of stock replenishment are described in the GSA Handbook, "The Economic Order Quantity Principle and Application," issued by the General Services Administration. When considered more suitable, contactors may use any of the other generally accepted approaches to EOQ.

Subpart 109-27.2—Management of Shelf-Life Materials

§ 109-27.202 Applicability.

Procedures and practices shall be established for managing shelf-life items to minimize loss and ensure maximum use prior to deterioration. FPMR 101-27.2 prescribes principles and objectives for such a program. When considered more suitable, contractors may use any other generally accepted approach to the management of shelf-life items.

Subpart 109-27.3—Maximizing Use of Inventories

§ 109-27.302 Applicability.

Procedures and practices shall be established for maximizing use of inventories. FPMR 101-27.3 prescribes policies and procedures to assure maximum use of inventories based upon recognized economic limitations. When considered more suitable, contractors may use any other generally accepted approach to maximizing use of inventories.

Subpart 109-27.4—Elimination of Items From Inventory

§ 109-27.402 Applicability.

Procedures and practices shall be established for eliminating from inventory items that can be obtained more economically from readily available sources on a timely basis. FPMR 101-27.4 provides policies and procedures for such a program. When considered more suitable, contractors may use other generally accepted approaches to determine which items should be retained in inventory.

Subpart 109-27.5—Return of GSA Stock Items

§ 109-27.500-50 Policy.

Procedures and practices shall be established to provide for the return of GSA stock items for credit when such action is feasible and economical and consistent with DOE program needs.

Subpart 109-27.50—Inventory Management Policies, Procedures, and Guidelines

§ 109-27.5001 Scope of subpart.

This subpart supplements FPMR Part 101-27 by providing additional policies, principles and guidelines for the economical and efficient management of inventories in support of DOE programs.

§ 109-27.5002 Stock control.

§ 109-27.5002-1 General.

Stock control shall be maintained on the basis of stock record accounts of inventories on hand, on order, received and issued, and supported by proper documents in evidence of these transactions. Stock record accounts shall be susceptible to review and inspection.

§ 109-27.5002-2 Criteria.

Effective quanity control shall be maintained over inventories not under financial control. Ordinarily, when such items are warehoused or stored for an extended period (generally 90 days or more), the controls should include stock cards, bin cards, or other suitable records showing usage and quantities on hand. Bench or cupboard stocks at individual work stations may sometimes temporarily exceed 90 days' requirements with justification, and it is not intended that these be subjected to quantity control stock records.

§ 109-27.5002-3 Construction inventories.

Stock control for construction inventories shall be maintained by the regular checking of individual items to assure that the quantities ordered plus amounts on hand do not exceed current job requirements. To test the effectiveness of such checks, they should be supplemented with DOE reviews of inventory items on a selective basis at approximately the 25 percent, 50 percent, and 75 percent construction completion stages. Undelivered portions of purchase orders, which these checks and reviews indicate are not needed to complete the project, should be canceled.

§ 109-27.5003 Guide levels for construction inventories.

To ensure that inventories maintained for construction programs and activities are reasonable, the following standards are established as guides (variations may be used where it is established by field organizations that they will more effectively or economically assure that inventory levels are held to the amounts required to complete the construction project):

(a) Ordinary construction materials and supplies readily available from commercial sources and not available from Government excess stocks permit phasing of deliveries and cancellation of undelivered quantities that may prove excess to project requirements. The onhand inventory of such materials generally should not exceed a three or four months' supply at the anticipated usage rates.

(b) Ordinary construction materials and supplies readily obtainable from Government excess stocks should be procured only in the amounts estimated to complete the construction project.

(c) Items obtained in bulk quantities that do not lend themselves to direct charge treatment, and which are obtainable only by special manufacturer or fabrication, should be limited to the estimates of requirements to complete the project as determined by a takeoff from plans and specifications, except as outlined in (d) below.

(d) Inventory levels in excess of estimates to complete the project should be confined to items so unusual in character or unique to the DOE program that they are obtainable only by special manufacture and will be required for maintenance purposes or for operation of the completed plant.

§ 109-27.5004 Sub-stores.

(a) Sub-stores shall be established when necessary in isolated or remote locations to expedite delivery of materials and supplies to the users, serve emergencies, provide economy in transportation, reduce shop and site stocks, and enable stores personnel to assist personnel in obtaining materials and supplies as needed.

(b) Items stored for issue in the substores shall be treated as inventory items for control and reporting purposes. Stock records shall be integrated with central stock records so that the total amount on hand of any item at all locations is known.

§ 109-27.5005 Shop, bench, cupboard or site stock.

(a) Shop, bench, cupboard or site stocks are an accumulation of small inventories of fast-moving materials at the point of use. Normally, these inventories are expensed. However, when stocks of such inventories are not consumed or do not turn over in a reasonable period of time, which normally should not exceed 30 to 90 days, these items should be subject to the required physical controls and recorded in the proper inventory account.

(b) Care shall be exercised to prevent excessive accumulation of inventories at such points. As a control measure, requisitions should be screened against issue data as reflected in stock records at the supply point. Also, work orders, retirement notices, minor construction projects, maintenance programs, and research and experimental projects, involving removal and dismantling should be reviewed and screened to prevent excessive inventories at point of use. However, the most effective control at point of use may be effected by administrative action through visual examination of quantities on hand, and close supervisory control and training of persons who requisition materials and supplies.

§ 109-27.5006 Standardization of stores items.

Stores items shall be standardized to the greatest extent practicable, taking into consideration the minimum requirements of the users, the need to follow good purchasing practices, the limitations of competitive bidding in specifying proprietary items, the availability of excess, and other limiting factors. In standardizing stores items, there should be close coordination among the supply, planning and user groups.

§ 109-27.5007 Stores catalogs.

A suitable stores catalog for customer use in requisitioning stores items shall be established for each stores operation. Exceptions to this requirement are authorized where establishment of a catalog is impracticable or uneconomical because of small total value or number of items involved, or temporary need for the facility. To minimize the need for revision, catalog appendices may be used to show standard or average unit prices and various locations of items. Revisions should be made at reasonable intervals.

§ 109-27.5008 Physical inventories.

§ 109-27.5008-1 Procedures.

The following procedures shall be established for taking physical inventory of stocks subjected to quantity controls as well as those under financial control:

(a) Completing an inventory at least once a year.

(b) Reconciling quantities shown by inventory with the stock record cards.

(c) Preparing a report evaluating the effectiveness of inventory control, projection methods, records management, and showing debit and credit adjustments made.

§ 109-27.5008-2 Inventory adjustments.

(a) Discrepancies between physical inventories and stock records shall be adjusted and the supporting adjustment records shall be reviewed and approved by a responsible official at least one supervisory echelon above the supervisor in charge of the warehouse or storage facility. Items on an adjustment report which are not within reasonable tolerances for particular items shall be thoroughly investigated before approval.

(b) Such inventory adjustment reports, when properly approved, support credits to the stock record cards and financial inventory accounts. Adjustment reports shall be retained on file for inspection and review.

§ 109-27.5009 Control of drug substances and potable alcohol.

(a) This section provides policies and procedures for the management of drug substances and potable alcohol.

(b) The term "controlled substance" means any drug or substance which has been assigned a "Bureau of Controlled Substance Code Number" as published in 21 CFR 1308—Schedule of Controlled Substances.

(c) Effective procedures and practices shall be established for the management and physical security of controlled substances and potable alcohol to the point of use. Such procedures shall, as a minimum, provide for (1) safeguarding, (2) proper use, (3) adequate records, and (4) compliance with applicable laws and regulations, whether such items are used in laboratories for research, instruction, experiments, analysis, medical purposes, or otherwise. Controls of potable alcohol shall be maintained on quantities of one quart and above.

(d) Effective procedures and practices shall be established for the management and physical security of hypodermic needles to prevent illegal use. Controls shall include prior signed supervisory approval for issue, and storage in locked repositories, and the needles shall be made useless upon disposal.

§ 109-27.5010 Containers returnable to vendors.

Containers furnished by vendors shall be administratively and physically controlled before and after issuance. Prompt action shall be taken to return such containers to vendors for credit after they have served their intended use.

§ 109-27.5011 Identification marking of metals and metal products.

§ 109-27.5011-1 General.

Metals and metal products shall be identification marked in accordance with applicable Federal standards. This requirement applies to direct charges as well as to items procured for store, shop or floor stock, or for use on construction projects. Additional markings not covered by the Federal standards should be used to show special properties, corrosion data or test data as required. The preferred process is for the marking to be done in the manufacturing process, but it may be applied by jobbers or other vendors when circumstances warrant.

§ 109-27.5011-2 Exception.

Exception to the marking requirement may be made when—

(a) It is necessary to procure small quantities from suppliers not equipped to do the marking;

(b) It would delay delivery of emergency orders; or

(c) Procurement is from DOE or other Federal agency excess.

§ 109-27.5011-3 Federal standards applicable to marking.

(a) Federal Standard 182A(2) "Identification Marking of Nickel and Nickel Base Alloys."

(b) Federal Standard 183B "Continuous Identification Marking of Iron and Steel Products."

(c) Federal Standard 184A "Identification Marking of Aluminum, Magnesium and Titanium."

(d) Federal Standard 185 "Continuous Marking of Copper and Copper Base Alloy Mill Products."

Copies of the above Federal standards can be obtained from the General Services Administration, Federal Supply Service (3 FRI), Washington, D.C. 20407.

Subpart 109-27.51—Management of Equipment Held for Future Projects

§ 109-27.5100 Scope of subpart.

This subpart provides policies, principles and guidelines to be used in the DOE program for the management of equipment held for future projects (EHFFP).

§ 109-27.5101 Definition.

"Equipment Held For Future Projects (EHFFP)" is equipment that is being retained, based on approved economic justifications for retention, (a) for a known future use, i.e., equipment earmarked for use in future approved projects, (b) for a potential use in planned projects, or (c) for potential use in as yet unidentified projects. Ideally, such equipment should fall under paragraph (a) or (b) of this section. However, there may be instances where retention is justified even though the project in which it may be used cannot be identified as in the case where the equipment has been specially fabricated, may be required in the future to confirm experimental results, and has little recovery value other than as scrap. This classification excludes spare equipment retained as backup for equipment in service or equipment placed in equipment pools, (classified as "In Service") and spare and other equipment constituting a part of the facilities in standby (classified as "Standby").

§ 109-27.5102 Other exclusions.

In addition to the exclusions cited in § 109-27.5101, the following categories of equipment will not be included in EHFFP:

(a) Excess completed plant and equipment.

(b) Equipment classified as "Plant and Equipment Changes in Progress."

§ 109-27.5103 Objective.

The objective of the "Equipment Held for Future Projects" program is to enable management to retain equipment not in use in current programs but which has a known or potential use in future DOE programs while providing visibility on the types and amounts of equipment so retained through review and reporting procedures. It is intended that equipment be retained which is economically justifiable for retention, that it be made available for use by others, and that equipment no longer needed be excessed.

§ 109-27.5104 Storage.

EHFFP will ordinarily be stored in warehouse space allocated for that purpose. However, where considered more appropriate, such equipment may be stored in storage yards or other areas with due consideration to the type of property and protection required.

§ 109-27.5105 Retention.

Equipment not required in current programs may be held for future projects when it is considered by appropriate authorities to be economically justified for retention, considering costs of replacement, storage, obsolescence, deterioration or future availability.

§ 109-27.5106 Justification and review procedures.

Procedures shall be established to provide for the following:

(a) The original decision to classify and retain equipment as EHFFP shall be justified in writing, providing sufficient detail to support the need for retention of the equipment. This justification will cite the project for which retained, the potential use to be made of the equipment or other reasons for retention.

(b) The validity of initial classification of equipment held for future projects shall be reviewed at a level of management one echelon above that of the individual making the initial determination.

(c) Retention of EHFFP shall be rejustified periodically (at least annually) to ensure that original justifications remain valid. These rejustifications will be supported with sufficient detail to support retention.

(d) Periodic rejustifications for retention of EHFFP shall be reviewed at a level of management above that of the individual making the determination to retain the equipment as held for future projects. Procedures should provide for higher level management review at the time the equipment held is extended.

(e) Suitable records shall be maintained by the holding organization to support initial justifications for retaining EHFFP, rejustifications of retention, and periodic reviews conducted by higher levels of management.

§ 109-27.5107 Field organization review.

Heads of field offices and contracting officers shall conduct periodic reviews of validity of justifications for retaining EHFFP, including those of contractors under their jurisdiction. These reviews should include onsite surveys of a representative sample of equipment in this classification.

§ 109-27.5108 Utilization.

It is DOE policy that, where practicable and consistent with program needs, EHFFP be considered as a source of supply to avoid or postpone procurement. Procedures shall be established to provide for—

(a) Distribution within the holding organization of lists of EHFFP to purchasing offices (or some other central screening office) and potential users for screening against requirements prior to procurement;

(b) Exchange of lists of EHFFP which can be made available for loan between organizations involved in the same or similar programs; and

(c) Encouragement of informal contacts between technical personnel and those engaged in similar work at other DOE facilities for the purpose of arranging property loans to meet program requirements.

§ 109-27.5109 Reports.

Instructions for submission of financial data for this report are contained in DOE Order 220, Chapter XI.

Subpart 109-27.52—Management of Spare Equipment

§ 109-27.5200 Scope of subpart.

This subpart provides policy guidance to be used in the management of spare equipment.

§ 109-27.5201 Definition.

"Spare equipment" is equipment held as replacement spares for equipment in current use in DOE programs.

§ 109-27.5202 Exclusions.

The following categories of equipment will not be considered spare equipment:

(a) Equipment installed for emergency backup, e.g., an emergency power facility, or an electric motor or a pump, any of which is in place and electrically connected.

(b) Equipment-like items properly classified as stores inventory.

§ 109-27.5203 Classification.

Equipment retained as replacement spares for plant and equipment in current use shall be classified as Plant and Equipment in Service.

§ 109-27.5204 Management policy.

(a) Procedures shall be established to provide that equipment retained as replacement spares for plant and equipment in current use is identified as spare equipment, that its purpose for retention is known, and that its need for retention is periodically reviewed.

(b) Reviews shall be made based on technical evaluations of the continued need for the equipment, as related to the equipment it backs up. Frequency of review should normally be biennial. In addition, individual item levels shall be reviewed when spare equipment is installed for use, the basic equipment is removed from service, or the process supported is changed.

(c) Procedures shall be established to provide that unneeded equipment is identified, promptly offered for use elsewhere within DOE as excess, or disposed of.

PART 109-28—STORAGE AND DISTRIBUTION

Sec.
109-28.000 Scope of part.
109-28.001-50 Policy.
109-28.001-51 Storage guidelines.

AUTHORITY. Title V, Department of Energy Organizations Act (Pub. L. 95-91). Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SOURCE: 44 FR 1002, Jan. 3, 1979, unless otherwise noted.

§ 109-28.000 Scope of part.

This part implements and supplements FPMR Part 101-28, Storage and Distribution.

§ 109-28.001-50 Policy.

Storage and warehouse services shall be—

(a) Established for the receipt, storage, issued, safekeeping and protection of Government-owned property when advantageous to the Government;

(b) Provided in the most economical and efficient manner through the use of Government-owned facilities, and where necessary available commercial facilities, consistent with program requirements; and

(c) Operated in accordance with generally accepted industrial management practices and principles.

§ 109-28.001-51 Storage guidelines.

(a) Adequate storage facilities shall be provided to ensure the proper safeguarding of all Government property. Facilities required will vary largely between the projects and other activities of the Department. Actual requirements will depend upon such factors as volume of property to be handled, characteristics of commodities to be stored, and nature of the operations.

(1) Indoor storage areas should be arranged to obtain proper stock protection and maximum utilization of space within established floor load capacities, but should be subject to flexibility to provide for periodic changes in specific space requirements. Employees engaged in warehouse and storage operations shall be instructed in safety and fire protection regulations pertaining to these operations.

(2) Storage yards for items not requiring covered protection shall be protected by locked fenced enclosures to the extent necessary to protect the Government's interest. Outside storage areas shall be prominently posted to clearly indicate that the property stored therein is U.S. Government property. Entrance to such areas should be restricted to authorized personnel only.

(b) The following general storage principles shall be observed in the planning for the storage of Government personal property.

(1) Efficient storage demands the maximum utilization of space with a minimum amount of labor. Where practicable, labor should be conserved by use of modern materials handling equipment and storage aids which permit stacking by unit loads rather than by individual container units.

(2) Fast-moving items should be stored in convenient locations from which they can be issued with minimum handling. Stocks of individual items or classes of items should be segregated to facilitate handling, issuing, and inventorying.

(3) Different types of property should be stored according to the kind of protection required. Protection requirements will vary greatly with the types of commodities stocked. All items must be protected from fire and theft. Certain items require protection from dampness, heat, freezing, or extreme temperature changes. Others must be stored away from light and odors, protected from vermin infestation, or, because of their hazardous characteristics, stored separate from other stocks. These factors, as well as maximum protection of property against all causes of deterioration or destruction, must be considered in selecting proper storage locations.

(4) Orderly arrangement is essential to efficient operation of storehouses. All items, whether stored in bins, bays, in bulk, or in original containers should be so arranged that nomenclature and quantity may be readily determined.

(5) Stock rotation is based on the general storage principle of "first in, first out." The fact that many items, such as perishables, food stuffs, medicines, paints, and chemicals are subject to deterioration or infestation, requires that the older stock be issued first.

(6) The safety regulations pertaining to the handling and storage of flammable materials, including bulk storage of gasoline, fuel oil, etc., and explosives are issued by the Department of Labor pursuant to the Occupational Safety and Health Act (PL 91-956). DOE offices and contractors are required to comply with the regulations contained in the Act.

PART 109-29—FEDERAL SPECIFICATIONS AND STANDARDS

Sec.
109-29.000 Scope of part.

Subpart 109-29.1—General

109-29.103 Availability of Federal standardization documents.

Authority: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

§ 109-29.000 Scope of part.

This part implements and supplements FPMR Part 101-29, Federal Specifications and Standards.

[44 FR 1003, Jan. 3, 1979]

Subpart 109-29.1—General

§ 109-29.103 Availability of Federal standardization documents.

The Index of Federal Specifications, Standards, and Handbooks may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies of Federal Specifications and Standards may be obtained as provided in the Index.

[44 FR 1003, Jan. 3, 1979]

PART 109-30—FEDERAL CATALOG SYSTEM

Sec.
109-30.000 Scope of part.
109-30.000-50 Applicability.

Subpart 109-30.5—Maintenance of the Federal Catalog System

109-30.503 Maintenance actions required.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SOURCE: 44 FR 1003, Jan. 3, 1979, unless otherwise noted.

§ 109-30.000 Scope of part.

This part supplements FPMR Part 101-30, Federal Catalog System.

§ 109-30.000-50 Applicability.

The provisions in FPMR Part 101-30 and this part do not apply to contractors.

Subpart 109-30.5—Maintenance of the Federal Catalog System

§ 109-30.503 Maintenance actions required.

(a) Standard Form 1303, "Request for Federal Cataloging/Supply Support Action," will be used to request cataloging action involving additions, deletions, or revisions. The instructions on the reverse of the form, supplemented as follows, will govern its preparation and submission.

(b) The original and two copies of the completed form shall be sent to GSA for processing. Inquiries concerning policy should be directed to the Procurement and Contracts Management Directorate (PR-221).

SUBCHAPTER F—ADP AND TELECOMMUNICATIONS

PART 109-35—TELECOMMUNICATIONS

Sec.
109-35.000 Scope of part.
109-35.000-50 Applicability to contractors.

Subpart 109-35.1—General Provisions

109-35.107 Surveys.
109-35.108 Agency payments to common carriers.

Subpart 109-35.2—Major Changes and New Installations

109-35.202 Definition of major changes.

Subpart 109-35.3—Utilization and Ordering of Telecommunications Services

109-35.304 Changes in telephone listing.
109-35.306 Forms for telegraph messages.

Subpart 109-35.4—Contracting, Negotiation, and Representation Involving Telecommunications Services

109-35.402 Contracting.
109-35.405 Submission of requests.

AUTHORITY: Sec. 161, as amended, 68 Stat. 948, sec. 205, 63 Stat. 390, as amended; 42 U.S.C. 2201, 40 U.S.C. 486.

SOURCE: 34 FR 12582, Aug. 1, 1969, unless otherwise noted.

NOTE: Nomenclature changes affecting this part were published at 40 FR 5364, Feb. 5, 1975.

§ 109-35.000 Scope of part.

This part prescribes ERDA regulations governing telecommunications activities, which regulations implement Federal Property Management Regulations.

§ 109-35.000-50 Applicability to contractors.

FPMR 101-35, Telecommunications, and ERDA-PMR 109-35, Telecommunications, shall be applied to cost-type contractors' telecommunications activities as follows:

(a) In all respects to cost-type contractors employing telecommunications facilities and services which are wholly owned, leased, or cost reimbursed by the ERDA.

(b) To all other cost-type contractors whose telecommunications costs are directly identifiable and chargeable to ERDA, when such costs are considered significant and to the extent that application of ERDA Manual Chapter 0270 and appendix handbook is practicable.

Subpart 109-35.1—General Provisions

§ 109-35.107 Surveys.

Surveys of ERDA communications facilities requested by GSA will be coordinated through ERDA headquarters.

§ 109-35.108 Agency payments to common carriers.

GSA will advise ERDA Headquarters of its requests for common carrier bills rendered to ERDA.

Subpart 109-35.2—Major Changes and New Installations

§ 109-35.202 Definition of major changes.

For the purpose of this Subpart 109-35.2, the following shall be deemed major changes or new installations of telecommunications facilities:

(a) *Local telephone service.* In connection with § 101-35.202(a)(6), installation or removal of tielines between the gateway PBX and satellite PBX's on the same site shall not be deemed major changes or new installations requiring GSA review. Significant increases or decreases in the number of these lines or other information which could have an effect on the FTS traffic load will be reported to GSA.

(b) *Intercity telephone service.* Applies as written in § 101-35.202.

(c) *Data transmission service.* Installation or removal of local data transmission channels or equipment which are used exclusively for onsite transmission (i.e., in the sense that there can be no direct transmission by the channel or equipment off the site) shall not require GSA approval. This, however, does not preclude compliance with the requirement of Subpart 101-35.202a.(9).

(d) *Telegraph service.* Installation or removal of exclusively onsite (i.e., in the sense that there can be no direct transmission by the equipment off the site) teletype leased lines and associated equipment shall not be deemed major change or new installation.

(e) *Communications security service.* The GSA/ERDA Agreement relating to communications security service provides information for GSA review in this area. No additional information need be provided by ERDA with respect to facilities covered by that Agreement.

(f) *Radio service.* Notification to GSA may be made through the GSA member of the Interdepartment Radio Advisory Committee (IRAC). ERDA need provide additional information with respect to matters reported to IRAC only if specifically requested by GSA. For purposes of radio service, calculation of the 20 regular working days referred to in FPMR 101-35.201 shall begin on the date the GSA member of IRAC is advised of the proposed ERDA action. GSA will review applications filed for "Telephone Action" and will informally advise ERDA of recommendations, if any, within 5 working days from the date of receipt of the application from IRAC.

(g) *Video and audio service.* The requirements of this paragraph shall not apply to exclusively onsite equipment (i.e., in the sense that there can be no direct transmission by the equipment or channels off the site).

Subpart 109-35.3—Utilization and Ordering of Telecommunications Services

§ 109-35.304 Changes in telephone listing.

ERDA is required to use Standard Form 146 only in connection with joint use switchboards not operated by ERDA or its contractors.

§ 109-35.306 Forms for telegraph messages.

ERDA is required to use Standard Form 14 only in connection with ERDA contractors' use of GSA-operated teletypewriter centers.

Subpart 109-35.4—Contracting, Negotiation, and Representation Involving Telecommunications Services

§ 109-35.402 Contracting.

Copies of existing ERDA communications common carrier contracts shall be furnished to GSA for information and analysis.

§ 109-35.405 Submission of requests.

Field office requests for GSA assistance will be submitted through ERDA Headquarters.

PART 109-36—ADP MANAGEMENT

Sec.

109-36.000 Scope of part.

Subpart 109-36.3—Reutilization of Automatic Data Processing Equipment and Supplies

109-36.300-50 Scope of subpart.
109-36.302-50 Reassignment of ADPE, and use and reutilization of excess ADPE within DOE.
109-36.303 Reutilization of excess ADPE.
109-36.303-0.50 Reporting excess or exchange/sale ADPE within DOE.
109-36.303-1 Designation of agency ADPE point of contact.
109-36.303-50 Transfer of ADPE within DOE.
109-36.304 Availability list.
109-36.306 Requests for transfer of excess ADPE or exchange/sale ADPE.

Subpart 109-36.47—Reports

109-36.4700 Scope of subpart.
109-36.4702 Reporting excess or exchange/sale ADPE.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SOURCE: 44 FR 1003, Jan. 3, 1979, unless otherwise noted.

§ 109-36.000 Scope of part.

This part implements and supplements FPMR Part 101-36 as it relates to excess utilization and disposal of Automatic Data Processing Equipment (ADPE). Guidance on other areas, such as resources utilization, acquisition studies, procurement and contracting, and maintenance and repair is or will be published in other parts of the DOE Directives System.

Subpart 109-36.3—Reutilization of Automatic Data Processing Equipment and Supplies

§ 109-36.300-50 Scope of subpart.

This subpart implements and supplements FPMR Subpart 101-36.3. Policies and procedures relating to acquisition, reassignment, or retention of excess ADPE are contained in policies and procedures established by the Office of the Director of Administration.

§ 109-36.302-50 Reassignment of ADPE, and use and reutilization of excess ADPE within DOE.

Data processing equipment and related services shall not be acquired (purchased or leased) from commercial sources until the necessary approvals have been obtained in accordance with instructions issued by the Office of the Director of Administration.

§ 109-36.303 Reutilization of excess ADPE.

§ 109-36.303-0.50 Reporting excess or exchange/sale ADPE within DOE.

(a) All ADPE, either Government-owned or -leased, which is no longer needed or is scheduled for replacement, shall be made available for utilization within DOE as soon as plans for the release of such equipment are known.

(b)(1) SF 120s for Government-owned ADPE shall be circularized for screening within DOE prior to reporting the item to GSA. The SF 120 shall contain the information required in FPMR 101-36.4702 and, for internal screening purposes, a release date (date of availability). If the release date is not firm, a tentative release date should be given, which would be subject to change until the actual release date is established.

(2) ADPE shall not be reported to GSA as excess until this screening has been accomplished and it has been established that there are no DOE claimants. Concurrent screening within DOE and GSA shall not be done. A minimum of 30 days should be allowed for screening ADPE prior to reporting it to GSA. In those instances where the release date can be determined sufficiently in advance, additional screening time should be allowed to permit maximum time for processing of requests to acquire excess ADPE.

(c) The procedures prescribed in § 109-36.303-0.50(b) shall be followed for leased ADPE. However, when time does not permit sequential DOE and GSA circularization, excess leased ADPE may be circularized concurrently in DOE and GSA to assure earned credits are not lost to the Government. The SF 120 should clearly indicate concurrent screening by DOE and GSA. Where time does not permit assurance that earned credits are not lost to the Government, announcement of availability of excess leased ADPE may be circularized within DOE by teletype (TWX).

(d) SF 120's or teletypes shall be sent to DOE activities listed on the distribution pattern of installations to receive reports of excess as provided in § 109-43.311-1.50. In addition, a copy of each report of excess Government-owned or -leased ADPE shall be provided to the Director of Administration, who will perform an additional screening of excess ADPE against known DOE requirements.

§ 109-36.303-1 Designation of agency ADPE point of contact.

The Director of Administration shall designate the DOE point of contact to carry out the responsibilities contained in FPMR 101-36.303-1.

§ 109-36.303-50 Transfer of ADPE within DOE.

(a) Transfers of excess ADPE having a current market price equal to or greater than that specified for major items as defined in the DOE Program Budget Structure are made pursuant to the requirement for proposals submitted in accordance with instructions from the Office of the Director of Administration.

(b) Transfers of excess ADPE with a current market price of less than that specified for major items shall be approved by the head of the field office and the head of the Headquarters organization having ADPE responsibility for the equipment. However, when more than one request is received, the field office head shall notify the requestors that acquisition proposals prepared in accordance with instructions from the Office of the Director of Administration shall be forwarded to the field office for review. After receipt of all proposals, the field office head shall—

(1) Approve the request for transfer which is judged to be in the best interests of DOE; or

(2) Where this judgment cannot be made locally, forward the proposals to the Director of Administration for action in a manner similar to proposals for equipment having a current market price equal to or greater than that specified for major items.

§ 109-36.304 Availability lists.

The Director of Administration shall develop and maintain distribution patterns for availability lists of excess and exchange/sale ADPE as contemplated in FPMR 101-36.304.

§ 109-36.306 Requests for transfer of excess DPE or exchange/sale ADPE.

The Director of Administration, heads of field offices, the Administrator, Energy Information Administration and contracting officers are authorized to sign Standard Form (SF) 122, Transfer Order Excess Personal Property, after appropriate approvals, involving requests for transfer of excess or exchange/sale ADPE, as required by FPMR 101-36.306(a). This authority may be redelegated to DOE personnel under their jurisdiction.

Subpart 109-36.47—Reports

§ 109-36.4700 Scope of subpart.

This subpart implements and supplements FPMR subpart 101-36.47 as it relates to reporting excess or exchange/sale ADPE to GSA.

§ 109-36.4702 Reporting excess or exchange/sale ADPE.

Excess Government-owned or leased ADPE and exchange/sale ADPE shall be reported to GSA on Standard Form (SF) 120, Report of Excess Personal Property, in accordance with the requirements of FPMR 101-36.4702. No provision is made in FPMR 101-36.4702 for the use of a TWX as a substitute for the SF 120 in reporting excess ADPE to GSA. When a TWX is used to report excess leased ADPE to GSA, it shall be followed up with an SF 120 to GSA, providing appropriate cross-reference information.

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

PART 109-38—MOTOR EQUIPMENT MANAGEMENT

Sec.
109-38.000 Scope of part.
109-38.000-50 Policy.

Subpart 109-38.0—Definition of Terms

109-38.001 Definitions.

Subpart 109-38.1—Reporting Motor Vehicle Data

109-38.100-1 Reporting forms.
109-38.102 Preparation of forms.
109-38.102-2 Reporting domestic and foreign vehicles.
109-38.102-50 Supplementary data reports.

Subpart 109-38.2—Registration and Inspection

109-38.202-50 Registration in foreign countries.
109-38.202-51 Shipment to foreign countries.

Subpart 109-38.3—U.S. Official Government Tags

109-38.302 Records.
109-38.303 Procurement.
109-38.305 Display, assignment and removal of U.S. Government tags.
109-38.305-3 Removal.

Subpart 109-38.4—Offical Legend and Agency Identification

109-38.404 Procurement of decalcomanias.

Subpart 109-38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

109-38.602 Unlimited exemptions.
109-38.602-50 Department of Energy exemptions.
109-38.605 Additional exemptions.
109-38.606 Approval of tag requests for exempted vehicles in the District of Columbia.
109-38.607 Report of exempted motor vehicles.

Subpart 109-38.7—Transfer of Title to Government-Owned Motor Vehicles

109-38.701 Methods of transfer.
109-38.701-50 Delegation of authority to sign Standard Forms 97 and 97A.

Subpart 109-38.9—Motor Vehicle Replacement Standards

Sec.
109-38.900-50 Policy.
109-38.907 Fleets.
109-38.908 Exception.
109-38.908-50 Prompt disposal of replaced passenger vehicles.

Subpart 109-38.10—Scheduled Maintenance of Motor Vehicles

109-38.1002 Agency requirements.
109-38.1003 Guidelines.
109-38.1005 Assistance to agencies.

Subpart 109-38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

109-38.1200 General.
109-38.1201 Billing Code.
109-38.1202 Administrative control of credit cards.

Subpart 109-38.13—Energy Conservation in Motor Vehicle Management

109-38.1304 Mandatory provisions affecting the acquisition and use of all motor vehicles.
109-38.1304-50 Selection of type of motor vehicles.
109-38.1305 Mandatory provisions affecting the acquisition, use, and replacement of motor vehicles.
109-38.1306 Acquisition of fuel-efficient passenger automobiles.
109-38.1350 Conservation of motor vehicle fuels.

Subpart 109-38.49—Form and Reports

109-38.4950 Acquisitions and disposals by transfer.
109-38.4951 Special purpose vehicles.
109-38.4952 Supplemental age and mileage analysis.

Subpart 109-38.50—Utilization of Motor Vehicles

109-38.5000 General.
109-38.5001 Utilization practices.
109-38.5002 Use objectives for motor vehicles.
109-38.5003 Application of use goals.

Subpart 109-38.51—Acquisition of Motor Vehicles

109-38.5100 General requirements.

Sec.
109-38.5101 Authority required for purchase or hire of passenger motor vehicles.
109-38.5101-1 Statute.
109-38.5101-2 Administration of the requirements of the statute with respect to acquisition of passenger motor vehicles.
109-38.5101-3 Administration of the requirements of the statute with respect to the hire or loan of passenger motor vehicles.
109-38.5101-4 Limitation on unit cost of sedans and station wagons.
109-38.5101-5 Passenger motor vehicle allocations.
109-38.5102 Procurement.

Subpart 109-38.52—Aircraft

109-38.5200 Scope of subpart.
109-38.5201 Definitions.
109-38.5202 General.
109-38.5203 Aircraft safety.
109-38.5204 Pilot responsibility and authority.
109-38.5205 Acquisition of aircraft.
109-38.5205-1 Statute.
109-38.5205-2 Approval requirements.
109-38.5205-3 Acquisition from excess sources.
109-38.5205-4 Notification of acquisition authorization.
109-38.5206 Management responsibility.
109-38.5207 Registration and identification.
109-38.5208 Airworthiness.
109-38.5209 Maintenance.
109-38.5210 Operation.
109-38.5211 Records.
109-38.5212 Reports.

Subpart 109-38.53—Cost Reductions Obtainable Through Cross-Servicing Arrangements for Motor Vehicle Fuel and Oil

109-38.5300 Scope of subpart.
109-38.5301 Submission of reports.

Subpart 109-38.54—Official Use of Motor Vehicles and Aircraft

109-38.5400 Scope of subpart.
109-38.5401 Statutory requirement.
109-38.5402 Policy.
109-38.5403 Official purposes.
109-38.5404 Approval of authorizations.
109-38.5405 Duration of authorizations.
109-38.5406 Use of a motor vehicle to drive to residence at start of official travel.
109-38.5407 Use of Government-owned or furnished motor vehicles in travel status.
109-38.5408 Use of Government-owned or leased bus systems.
Sec.
109-38.5409 Use of Government motor vehicles in emergencies.
109-38.5410 Use of motor vehicles by the Postal Service.
109-38.5411 Instructions to motor vehicle operators.

AUTHORITY: Title V, Department of Energy Organization Act, (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SOURCE: 44 FR 1004, Jan. 3, 1979, unless otherwise noted.

§ 109-38.000 Scope of part.

This part implements and supplements FPMR Part 101-38 concerning the management of motor equipment, vehicles and aircraft.

§ 109-38.000-50 Policy.

Necessary motor equipment, vehicles and aircraft shall be provided, maintained and utilized in support of DOE programs in the most practical and economical manner consistent with program requirements, safety considerations, fuel economy and applicable laws and regulations.

Subpart 109-38.0—Definition of Terms

§ 109-38.001 Definitions.

As used in this part the following definitions apply:

(a) "Motor equipment" means any item of equipment which is self-propelled or drawn by mechanical power, including motor vehicles, motorcycles and scooters, construction and maintenance equipment, materials handling equipment, aircraft and vessels.

(b) "Motor vehicle" means any equipment, self-propelled or drawn by mechanical power, designed to be operated principally on the highways in the transportation of property or passengers. This includes both motorcycles and motor scooters.

(c) A "replacement off-set" is an authorization to one field office to acquire a new passenger motor vehicle to replace an old passenger motor vehicle which is excess to another field office. The transaction does not require the physical transfer of the excess vehicle.

but it is limited to a documentary transfer.

(d) "Special purpose vehicles" have limited but essential missions. They cannot be used generally to carry passengers, freight or other material. Trucks with permanently mounted equipment—such as fire trucks, special tank trucks, wreckers and trucks with compressors or generators in fixed mounting on the body may be classified as special purpose trucks. Vehicles other than sedans and station wagons which are to be used only during a defined or specified contingency, such as evacuation or other similar emergency, may also be classified as special purpose vehicles. For reporting purposes within DOE, motorcycles and motor scooters will also be reported as special purpose vehicles.

(e) "Experimental vehicles" are those acquired solely for testing and research purposes or otherwise designated for experimental purposes. Such vehicles are to be the object of testing and research as differentiated from those used as vehicular support to testing and research. Experimental vehicles are not to be used as passenger carrying vehicles, and they are not subject to statutory price limitations or to authorization limitations.

Subpart 109-38.1—Reporting Motor Vehicle Data

§ 109-38.100-1 Reporting forms.

(a) Organizations operating motor vehicles shall provide the following reports:

(1) Agency Report of Motor Vehicle Data, Standard Form 82 (SF-82).

(2) Agency Report of Sedan Data, Standard Form 82-D (SF 82-D).

(3) Supplementary Data Reports:

(i) Acquisitions and Disposals by Transfer (§ 109-38.4950)

(ii) Special Purpose Vehicles (§ 109-38.4951)

(iii) Supplemental Age and Mileage Analysis (§ 109-38.4952).

(b) One copy of each of the above reports shall be submitted to the Procurement and Contracts Management Directorate (PR-221) by the 21st working day following September 30 of each year.

(c) Each field office and reporting Headquarters organization shall submit consolidated reports on all vehicles for organizations under their jurisdiction and, attached thereto, the separate reports for each field organization, multi-program laboratory and contractor which submits a Budget Schedule 81 to Headquarters.

(d) Where authorized by the Procurement and Contracts Management Directorate (PR-221) the reports shall be submitted in mechanized form in accordance with separate instructions for the preparation of mechanized reports.

§ 109-38.102 Preparation of forms.

(a) Costs in the Standard Forms shall be shown in dollars (not rounded to thousands).

(b) Narrative comments shall be submitted in connection with these reports. The comments shall include (1) a comparison of statistical information between fiscal years, (2) an explanation of any significant changes between years, and (3) any other information that will assist in the interpretation of data contained in the reports.

§ 109-38.102-2 Reporting domestic and foreign vehicles.

Separate SF-82's and supplementary data forms shall be prepared for vehicles located (a) in the United States, including territories and possessions, and (b) in a foreign country.

§ 109-38.102-50 Supplementary data reports.

(a) Supplementary Data on Acquisitions and Disposals by Transfer, in the format illustrated in § 109-38.4950, shall be submitted with each SF-82. The purpose of the supplementary data on acquisition and disposal is to identify the number of motor vehicles transferred (1) between DOE and other agencies, (2) between DOE activities, (3) from one vehicle type to another by reclassification, and (4) to permit reporting of the actual number of vehicles acquired or disposed of by DOE.

(b) Supplementary data on age and mileage of sedans and light trucks, less than 12,500 pounds (one ton and under), 4 x 2, shall be reported in the format illustrated in § 109-38.4952. This supplementary data shall be submitted only for those sedans and light trucks, 4 x 2, listed in the SF-82 submitted in accordance with § 109-38.100-1.

(c) Supplementary data on Special Purpose Vehicles shall be reported in the format illustrated in § 109-38.4952. For the purpose of this report, contaminated vehicles shall be reported as special purpose.

Subpart 109-38.2—Registration and Inspection

§ 109-38.202-50 Registration in foreign countries.

Motor vehicles used in foreign countries are to be registered and carry license tags in accordance with the existing motor vehicle regulations of the country concerned.

§ 109-38.202-51 Shipment to foreign countries.

(a) When motor vehicles are being shipped for use in a foreign country, the desk officer or individual handling the affairs pertaining to that country in the Department of State shall be contacted before shipment is made for information concerning the licensing and shipping of the vehicle.

(b) The person responsible for, and expected to use, a motor vehicle in a foreign country shall make inquiry at the United States Embassy, Legation, or Consulate concerning the regulations that apply to registration, licensing, and operation of motor vehicles and shall be guided accordingly.

Subpart 109-38.3—U.S. Official Government Tags

§ 109-38.302 Records.

(a) The Director of Procurement and Contracts Management assigns "blocks" of U.S. Government tag numbers to DOE organizations and maintains a current record of such assignments. Additional "blocks" will be assigned upon request.

(b) Each Departmental organization shall maintain a current record of individual assignments of tags to the motor vehicles under its jurisdiction as required by FPMR 101-38.302.

§ 109-38.303 Procurement.

The procedures for procuring official Government tags by DOE activities are covered in DOE-PR 9-5.5206-9.

§ 109-38.305 Display, assignment and removal of U.S. Government tags.

§ 109-38.305-3 Removal.

Necessary controls shall be established to ensure that tags which are voided shall be destroyed or defaced to prevent their reuse.

Subpart 109-38.4—Official Legend and Agency Identification

§ 109-38.404 Procurement of decalcomanias.

The official legend and agency identification for DOE shall be of elastomeric pigmented film type decalcomania which are currently standardized DOE Form 597. The form shall be requisitioned from the Office of the Director of Administration (AD-472), on a regular six-month basis.

Subpart 109-38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

§ 109-38.602 Unlimited exemptions.

§ 109-38.602-50 Department of Energy exemptions.

(a) Exemptions from the requirements for the display of Federal license tags and other official identification may be approved by heads of field offices or the Director of Administration for motor vehicles under their cognizance which are used in the conduct of security operations or in the enforcement of security regulations of the DOE.

(b) The requirements for displaying Federal license tags on the front and rear of all motor equipment is modified in the case of trailers to require tags in the rear only.

(c) The requirements for the display of Federal license tags and other identification does not apply to motor vehicles used in foreign countries, Trust Territories, or the Pacific Test Areas (see FPMR 101-38.202 and § 109-38.202-50).

§ 109-38.605 Additional exemptions.

(a) Requests made pursuant to FPMR 101-38.605 for exemption from the requirement for displaying U.S. Government tags and other identification on motor vehicles which are not within the criteria in FPMR 101-38.602 shall be submitted through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221). Each such request shall describe the vehicle for which exemption is sought, the nature of the work on which it is used, and include a certification to the effect that conspicuous identification would interfere with such use.

(b) The Director of Procurement and Contracts Management shall be notified promptly when—

(1) The need for a previously authorized exemption no longer exists;

(2) An exempted motor vehicle is rotated to other work not requiring continued exemption; or

(3) An exempted motor vehicle is replaced by another vehicle, in which case the notification shall include a description of the replacement vehicles.

(c) Copies of certifications and cancellation notices required to be furnished to GSA pursuant to FPMR 101-38.605 will be transmitted to GSA by the Director of Procurement and Contracts Management.

§ 109-38.606 Approval of tag requests for exempted vehicles in the District of Columbia.

The Director of Administration is designated as the DOE Liaison Representative to approve requests for regular District of Columbia tags for Headquarters motor vehicles exempted from carrying U.S. Government tags and other official identification, and furnishes annually to the District of Columbia Department of Motor Vehicles the name and specimen signature of each representative authorized to approve such requests.

§ 109-38.607 Report of exempted motor vehicles.

The Director of Administration, heads of field offices and other contracting officers or their designees shall maintain records of motor vehicles exempted from displaying Federal license tags and other identification which will permit the submission of reports by the Director of Procurement and Contracts Management upon request of GSA in accordance with FPMR 101-38.607. The records shall contain a listing by type of each exempted vehicle operated during the previous fiscal year, giving the information for each vehicle on hand at the beginning of the year and each of those newly authorized during the year, including—

(a) By whom exemption was authorized, by name and title of authorizing official (including any authorization by Headquarters and GSA);

(b) Date exemption was authorized;

(c) Reasons for exemptions and limitations on uses of the exempted vehicle;

(d) Date of discontinuance for any exemption discontinued during the year; and

(e) Probable duration of exemption for vehicles continuing in use.

Subpart 109-38.7—Transfer of Title to Government-Owned Motor Vehicles

§ 109-38.701 Methods of transfer.

(c) The certificates and copies of Certificate of Release of a Motor Vehicle (SF's 97 and 97A) shall be numbered consecutively by each DOE organization disposing of motor vehicles.

§ 109-38.701-50 Delegation of authority to sign Standard Forms 97 and 97A.

(a) Heads of DOE organizations may delegate the authority to sign SF's 97 and 97A to responsible DOE personnel under their jurisdiction. The name of the officer delegated to sign will be typed on the certificate in addition to the signature in ink.

(b) All DOE organizations shall establish proper controls to prevent blank copies of SF's 97 and 97A from being obtained by unauthorized persons.

Subpart 109-38.9—Motor Vehicle Replacement Standards

§ 109-38.900-50 Policy.

It is the policy of DOE to continue in service motor vehicles which meet prescribed replacement standards, but which are in usable and workable condition, provided that—

(a) A continued need exists for the vehicle;

(b) The vehicle can be operated safely and dependably without excessive repair and maintenance costs. Normally, when any single repair job exceeds 25 percent of the estimated current market value of a vehicle, consideration should be given to replacement in lieu of repair and retention;

(c) Repair parts are readily obtainable; and

(d) Retention will not substantially reduce the trade-in value of the vehicle.

§ 109-38.907 Fleets.

(a) The replacement limitations cited in FPMR 101-38.907 are applicable to each of DOE's field offices and may not be exceeded.

(b) For replacement purposes, fleet vehicles are classified as follows:

(1) Automobiles (sedans and station wagons)

(2) All other passenger vehicles (ambulances, buses)

(3) All trucks and truck tractors.

(c) To be replaced, vehicles must meet age and mileage standards shown in FPMR 101-38.9.

§ 109-38.908 Exceptions.

After certification by the appropriate head of the field office, or the head of the appropriate Headquarters organization, that a motor vehicle is beyond economical repair due to wreck or damage, including wear caused by abnormal operating conditions, it may be replaced without regard to replacement standards in FPMR 101-38.9.

§ 109-38.908-50 Prompt disposal of replaced passenger vehicles.

Because of the limitation on the total number of passenger vehicles which DOE may have, replaced passenger vehicles shall be removed from service and disposed of prior to or as soon as practicable after delivery of the replacement equipment to avoid concurrent operation of both vehicles. Because of disposal problems, there may be occasions where quick disposal of the old equipment may not be feasible or advantageous to the Government, e.g., it may be determined that there is an insufficient number for economical sale or that sale would bring substantially better prices at a later date because of seasonal effects on sale prices. Under such circumstances, retention of the replaced passenger vehicle may be justified. However, such retention may not be used as justification for concurrent operation of the new and replaced vehicles.

Subpart 109-38.10—Scheduled Maintenance of Motor Vehicles

§ 109-38.1002 Agency requirements.

All DOE organizations responsible for Government-owned motor vehicle and equipment operations shall establish a scheduled maintenance program.

§ 109-38.1003 Guidelines.

(a) In line with the basic maintenance policy in FPMR 101-38.10, the scheduled maintenance program for motor vehicles and equipment shall consist of a systematic written procedure for servicing and inspection to ensure safe, efficient and economical operation throughout the period of use and to meet warranty requirements. Maintenance procedures shall be reviewed by the field offices at least annually and revised as necessary to reflect approved changes.

(b) Motor vehicles and equipment shall be maintaned in accordance with the manufacturers' recommended specifications.

(c) Whenever practicable, existing Government shops and service facilities shall be consolidated or commercial shops and services shall be utilized to reduce to a minimum the maintenance facilities and equipment, supplies, parts, stocks and overhead costs.

(d) Maintenance also shall be geared to a planned replacement program. Individual jacket files shall be kept and made readily available to appropriate maintenance personnel to provide historical records of past repairs, as a control against unnecessary repairs and overmaintenance, and as an aid in determining the most economical time for replacement.

(e) One-time maintenance and repair limitations shall be established by heads of field offices. To exceed repair limitations, approval from heads of field offices is required, particularly as the time of replacement approaches.

(f) Adequate maintenance schedules shall be provided to accomplish the following objectives in the most economical manner:

(1) To maintain equipment in safe and economical operating condition.

(2) To prevent equipment failures resulting in program delays and excessive downtime.

(3) To prevent premature wear and deterioration.

(4) To prevent undue depreciation.

(5) To conserve materials and manpower.

(g) A "Guide for Preventive Maintenance of Motor Vehicles," published by GSA, is available for the guidance of all those responsible for maintenance of Government-owned motor vehicles.

(h) *Warranties.* (1) Special attention shall be devoted to the warranty on each motor vehicle to ensure that maximum benefits are realized from each warranty. Defective materials and workmanship on vehicles under warranty should be corrected under the terms of the warranty to avoid maintenance and repair of such vehicles at Government expense.

(2) When motor vehicles are maintained in Government shops in isolated locations that are distant from franchised dealer shops, or when it is not practical to return the vehicles to a dealer, billback agreements shall be sought from manufacturers to permit warranty work to be performed in Government shops on a reimbursable basis. GSA's "New Vehicle Guide, Warranty, Delivery Acceptance and Recall of Motor Vehicles," provides guidance on the procedures to be followed in the development of billback agreements as well as other aspects of motor vehicle warranties.

§ 109-38.1005 Assistance to agencies.

GSA is prepared to furnish comments and suggestions with respect to scheduled maintenance programs and, at no cost, will make motor equipment management technicians available to assist in establishing or reviewing preventive maintenance programs. Requests for GSA assistance should be made to the Procurement and Contracts Management Directorate (PR-221) through normal administrative channels.

Subpart 109-38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

§ 109-38.1200 General.

FPMR 101-26.406 authorizes the use of Standard Form 149, U.S. Government National Credit Card for Federal agencies for obtaining service station deliveries and services. The use of SF-149 by each field organization within DOE is optional. When a field organization elects to use the form, it shall be used on a field organization basis. Procedures concerning the methods to obtain credit cards shall be as specified in FPMR 101-26.406-5.

§ 109-38.1201 Billing Code.

DOE organizations shall request the assignment of billing address code numbers from the Procurement and Contracts Management Directorate (PR-221). Following the assignment, DOE organizations shall submit orders for issuance of national credit cards in accordance with FPMR 101-26.406-5. The billing code consists of the following:

(a) The first three digits of the 10-digit billing code embossed on national credit cards in use by DOE will always be 000.

(b) The fourth digit may be used by DOE organizations and contractors to designate the vehicle class or provide additional billing code numerals. If not used for either of these purposes, zero will be used.

(c) The fifth and sixth digits will be "89," the agency code assigned to DOE.

(d) The seventh, eighth, and ninth digits indicate the billing address code number.

§ 109-38.1202 Administrative control of credit cards.

(a) In the event an SF-149 is lost or stolen, reasonable precautions shall be taken to minimize the opportunity of purchases being made by unauthorized persons. The following actions shall be taken as a minimum:

(1) The paying office shall be notified of the loss or theft and to be on the alert for any unauthorized bills.

(2) Appropriate service station outlets in the area shall be notified of the loss or theft to guard against purchases by unauthorized persons.

(b) The head of each office using credit cards shall be responsible for establishing procedures to provide for the administrative control of credit cards in accordance with the guidelines set forth in FPMR Part 101-38.

Subpart 109-38.13—Energy Conservation in Motor Vehicle Management

§ 109-38.1304 Mandatory provisions affecting the acquisition and use of all motor vehicles.

(c) The use of motor vehicles for official purposes within DOE is governed by the provisions of DOE Subpart 109-38.55.

§ 109-38.1304-50 Selection of type of motor vehicles.

(a) All vehicles acquired for use, whether by purchase, hire, lease, forfeiture or transfer from another agency, shall be limited to the minimum body size, engine size, maximum fuel efficiency, and to only that operational equipment (if any) necessary to fulfill programmatic needs.

(b) The least expensive unit overall should be used, considering both acquisition and operating costs for units to be purchased, and rental rates for rented or leased units.

(c) Dual purpose vehicles capable of hauling both personnel and light cargo shall be used whenever appropriate to avoid the need for two vehicles when one can serve both purposes. However, truck-type or van vehicles shall not be acquired for passenger use merely to avoid limitations on the number of passenger vehicles which may be acquired.

(d) Motor scooters and motorcycles in place of higher cost motor vehicles can be used advantageously for certain applications within plant areas, such as mail and messenger service and small parts and tool delivery. Their advantage, however, should be weighed carefully from the standpoint of overall economy (comparison with costs for other types of motor vehicles) and increased safety hazards, particularly when mingled with other motor vehicle traffic.

(e) Electric vehicles may be used advantageously for certain applications. The use of these vehicles is encouraged wherever it is feasible to use them to further the goal of fuel conservation.

§ 109-38.1305 Mandatory provisions affecting the acquisition, use, and replacement of motor vehicles.

Requests to acquire passenger automobiles larger than class 1A, 1B or II shall be forwarded with justifications through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221) for certification to GSA.

§ 109-38.1306 Acquisition of fuel-efficient passenger automobiles.

(a) DOE shall comply with the requirements established by the Energy Policy and Conservation Act (Pub. L. 94-163, 42 U.S.C. 6201, Sec. 510) and Executive Order 12003, "Relating to Energy Policy and Conservation," and current GSA implementation concerning the acquisition of fuel efficient motor vehicles.

(b) Offices conducting motor vehicle operations shall forward annually (on or before November 1) to the Procurement and Contracts Management Directorate (PR-221) their plan for acquisition of motor vehicles for the next fiscal year. This plan shall conform to the fuel efficiency standards for motor vehicles for the applicable fiscal year, as established by Executive Order 12003 and as implemented by GSA and current DOE directives. Additional guidance for the preparation of the plan will be issued by the Procurement and Contract Management Directorate (PR-221) as required. This organization shall also review each submission for conformance with established fuel efficiency standards and shall forward to GSA the Departmental consolidated annual motor vehicle acquisition forecast.

(c) Requisitions for the purchase of these motor vehicles shall be forwarded to the Procurement and Contracts Management Directorate (PR-221) for review, certification and submission to GSA.

(d) Proposals/requests for commercially leased passenger automobiles, for a period of 60 continuous days or more, shall be forwarded to the Procurement and Contracts Management Directorate (PR-221) for review and certification prior to entering into an agreement to lease in order to comply with Executive Order 12003 as implemented by GSA.

§ 109-38.1350 Conservation of motor vehicle fuels.

In furtherance of the President's announced energy conservation objectives, each organization within DOE shall establish programs which will ensure achievement of the reduced motor vehicle fuel consumption objectives. The following actions shall be adopted to achieve the conservation goals of reduced motor vehicle fuel consumption:

(a) Do not idle engine for long periods of time. Limit idle time to one minute when the vehicle is parked.

(b) Reduce motor vehicle travel to the maximum extent practicable without jeopardizing essential business.

(c) Use the smallest vehicle that is feasible for the job.

(d) Maintain tire pressure to tire manufacturer's recommendations. Check pressure at least once each week.

(e) Give wide publicity on proper driving techniques as prescribed by GSA to conserve fuels and require that all drivers diligently follow them.

(f) Travel at reduced speeds and limit speed to the National Speed Limit.

(g) Enforce proper maintenance and servicing procedures, such as tuneups, in accordance with the manufacturer's latest specifications.

Subpart 109-38.49 Forms and Reports

§ 109-38.4950 Acquisitions and disposals by transfer.

ACQUISITIONS AND DISPOSALS BY TRANSFER

	Sedans	Station wagons	Ambulances	Buses	Light 4x2	Trucks 4x4	Medium trucks	Heavy trucks	Special purpose	Total
Acquired by Transfer										
From Other Agencies										
From Other DOE Offices										
By Reclassification										
Disposal by Transfer										
To Other Agencies										
To Other DOE Offices										
By Reclassification										

Note 1: With regard to sedans, station wagons, ambulances and buses, the acquiring office should specifically identify the agency or office from which acquired and the disposing office should specifically identify the acquiring office or agency.

Note 2: Vehicles transferred by reclassification should specifically identify by footnote the gaining and losing category, i.e., one each 2½ T truck to special purpose.

Best Available Copy

§ 109-38.4951 Special purpose vehicles.

SPECIAL PURPOSE VEHICLES

FY 19——

	Total
1. Vehicles on Hand, October 1	
2. Acquisitions	
3. Disposals	
4. Vehicles on Hand, September 30	
5. Cost of Vehicles Acquired	

SPECIAL PURPOSE VEHICLES—Continued

FY 19——

	Total
6. Proceeds from Sales	
7. Net Cost (Line 5 minus 6)	
8. Number Assigned from Interagency Motor Pools (Term Basis)	
9. Cost of 8 above	
10. Number of Rented Commercially (Term Basis)	
11. Cost of 10 above	

Best Available Copy

§ 109-38.4952 Supplemental age and mileage analysis.

SUPPLEMENTAL AGE AND MILEAGE ANALYSIS

Model	Number of vehicles, by cumulative miles operated										
	0 to 999	1,000 to 9,999	10,000 to 19,999	20,000 to 29,999	30,000 to 39,999	40,000 to 49,999	50,000 to 59,999	60,000 to 79,999	80,000 to 99,999	100,000 and over	Total
CURRENT YEAR											
PRECEDING YEAR											
2ND PRECEDING YEAR											
3RD PRECEDING YEAR											
4TH PRECEDING YEAR											
5TH PRECEDING YEAR											
6TH PRECEDING YEAR											
7TH PRECEDING YEAR											
8TH PRECEDING YEAR											
9TH PRECEDING YEAR											
10TH PRECEDING YEAR											
TOTAL											

Best Available Copy

Best Available Copy

Subpart 109-38.50—Utilization of Motor Vehicles

§ 109-38.5000 General.

To keep the number of motor vehicles at the minimum which will adequately satisfy program requirements, continuing attention shall be given to developing and implementing methods and practices which will help achieve the most practical and economical utilization of vehicles.

§ 109-38.5001 Utilization practices.

Methods and practices for achieving maximum economical utilization of motor vehicles shall include but not be limited to—

(a) The maximum use of equipment pooling arrangements, taxicabs, or other common service arrangements;

(b) The minimum, practicable assignment of equipment to individuals, groups or specific organizational components;

(c) Frequent review of vehicle utilization statistics by appropriate levels of management;

(d) The careful selection of equipment types to permit the maximum appropriate use of multi-purpose equipment;

(e) The rotation of equipment between high and low mileage assignments where practicable to maintain the fleet in the best overall replacement age and mileage balance and operating economy; and

(f) The maintenance of individual equipment use records, such as trip tickets or vehicle logs, showing sufficiently detailed information to evaluate appropriateness of assignment and adequacy of use being made. If onetime use is involved, such as assignments from motor pools, the individual's trip records must, as a minimum, identify the vehicle and show the name of the operator, dates, destination, time of departure and return, and mileage.

§ 109-38.5002 Use objectives for motor vehicles.

The following use goals are established for DOE as average objectives:

(a) Sedans and station wagons—3,000 miles per quarter or 12,000 miles per year.

(b) Light trucks and general purpose vehicles, one ton and under (less than 12,500 GVW)—10,000 miles per year.

(c) Medium trucks and general purpose vehicles, 1½ ton through 2½ ton (12,500 to 16,999 GVW)—7,500 miles per year.

(d) Heavy trucks and general purpose vehicles, three ton and over (17,000 GVW and over)—7,500 miles per year.

(e) Truck tractors—10,000 miles per year.

(f) All-wheel-drive vehicles—7,500 miles per year.

(g) Other motor vehicles—No average use goals for other trucks, ambulances, buses, and special purpose vehicles are established. The use of such equipment shall be reviewed and necessary action taken to ensure that the equipment is fully utilized or declared excess to the Department's needs.

§ 109-38.5003 Application of use goals.

Individual motor vehicle utilization cannot always be measured or evaluated strictly on the basis of miles operated or against any Department-wide mileage standard. Other measures of use will need to be considered. Accordingly, as an aid in achieving maximum feasible utilization, local use objectives which represent practical units of measurement for vehicle utilization and for planning and evaluating future vehicle requirements should be established. Such objectives should generally be initiated by the organization involved and reviewed and adjusted as appropriate, but not less often than annually. The objectives will take into consideration past performance, future requirements and special operating conditions and should be consistent with the justifications used to obtain vehicle authorizations.

Subpart 109-38.51 Acquisition of Motor Vehicles

§ 109-38.5100 General requirements.

The acquisition of motor vehicles shall be limited to the minimum number needed to adequately serve program requirements. Any additions to the fleet must be fully justified and the justification shall include satisfaction that established utilization objectives are being achieved.

§ 109-38.5101 Authority required for purchase or hire of passenger motor vehicles.

§ 109-38.5101-1 Statute.

(a) 31 USC 638a(a) provides that no appropriation shall be available for the purchase or hire of passenger motor vehicles unless specifically authorized by the appropriation concerned or other law. Such authority will generally be included in the annual appropriation acts for DOE. These acts usually are specific as to the number of passenger motor vehicles which may be purchased and whether they are to be "replacements" or "additions." Any authority for DOE to hire passenger motor vehicles is also contained in the acts (although numbers are not specified).

(b) 31 USC 638a(e) provides that the acquisition of passenger motor vehicles by any agency by transfer from another department of the Government shall be considered as a purchase within the meaning thereof.

§ 109-38.5101-2 Administration of the requirements of the statute with respect to acquisition of passenger motor vehicles.

In implementation of the provisions of 31 USC 638a(a) and (e) and the Comptroller General's Decision B-154282, dated October 15, 1966, passenger motor vehicles may not be acquired by purchase or transfer unless they are—

(a) Specifically authorized by the Director of Procurement and Contracts Management, pursuant to the appropriation concerned or other law;

(b) Acquired from excess without reimbursement for upgrading or replacement purposes and an equal number of replaced vehicles are reported for disposal as excess within 30 days; or

(c) For temporary emergency needs not in excess of three months in lieu of commercial rentals.

§ 109-38.5101-3 Administration of the requirements of the statute with respect to the hire or loan of passenger motor vehicles.

(a) Inclusion of specific authority in the DOE appropriation or other law is sufficient basis for hiring passenger motor vehicles.

(b) Prior to commercial rental, temporary vehicle needs which cannot be filled by GSA motor pools shall be obtained from available excess (or other Federal agencies on a loan basis) to the greatest extent feasible and economical. Excess (or loaned) vehicles may be acquired to fill temporary needs for periods not to exceed three months without specific Headquarters approval or without charging against the number authorized for purchase. If, however, it becomes desirable to extend the use of such vehicles in excess of three months, they shall be charged against the number authorized for purchase unless otherwise approved by the Procurement and Contracts Management Directorate (PR-221). (Comp Gen B-154282 dated October 15, 1965.)

§ 109-38.5101-4 Limitation on unit cost of sedans and station wagons.

(a) Public Law 91-423 dated September 26, 1970, amends paragraph (1) of subsection (c) of section 5 of the Act of July 16, 1914, as amended (31 USC 638a), and provides that "unless otherwise specifically provided, no appropriation available for any department shall be expended * * * to purchase any passenger motor vehicle (exclusive of buses and ambulances), at a cost, completely equipped for operation, and including the value of any vehicles exchanged, in excess of the maximum price therefor, if any, established pursuant to law by a Government agency and in no event more than such amount as may be specified in an appropriation or other Act, which shall be in addition to the amount required for transportation."

(b) The above amendment continues as follows: "A passenger motor vehicle shall be deemed completely equipped for operation if it includes the systems and equipment which the Administrator of General Services finds are customarily incorporated into a standard passenger motor vehicle completely equipped for ordinary operation. Notwithstanding any other provisions of law, additional systems or equipment may be purchased whenever the Administrator finds it appropriate. The price of such additional systems or equipment shall not be considered in determining whether the cost of a passenger motor vehicle is within any maximum price otherwise established by law." The Administrator of General Services has issued instructions to Federal agencies for procurement of additional systems and equipment in FPMR 101-25.304 and 101-26.501.

(c) The essentiality of additional systems and equipment shall be based on requirements for safety, efficiency, economy, suitability of the vehicle for purposes intended and fuel economy.

(d) Requests may be made in the annual budget estimates, where appropriate, for the cost of additional systems and equipment on sedans and station wagons, including those police-type vehicles necessary for security purposes. Actual purchase of passenger vehicles shall be made only after allocation by the Director of Procurement and Contracts Management based on Congressional authorizations contained in the Departmental appropriation acts.

§ 109-38.5101-5 Passenger motor vehicle allocations.

(a) To assure that DOE purchases do not exceed the number of passenger motor vehicles authorized to be purchased in any fiscal year, the Director of Procurement and Contracts Management shall allocate to field offices the number that they may purchase and shall inform them of the number of passenger motor vehicles which may be purchased. These allocations and applicable unit cost limitations shall not be exceeded.

(b) In order that unused authority to purchase may be reallocated, the offices concerned shall notify the Procurement and Contracts Management Directorate (PR-221) when allocations will not be used. Such notifications shall be submitted as soon as possible but not later than June 15 of each year.

(c) In order that passenger vehicles no longer needed by one field office may be used by another, either by actual transfer for continued use or as replacement off-sets, they shall be reported to the Procurement and Contracts Management Directorate (PR-221) prior to any disposal action so that such use can be properly coordinated within DOE.

§ 109-38.5102 Procurement.

(a) Policies and procedures for the purchase of new motor vehicles, including provisions for the procurement of additional systems and equipment for sedans and station wagons, are set forth in FPMR 101-26.5 and DOE-PR 9-5.52.

(b) Selection guidelines for justification of air-conditioning and other additional systems and equipment, with respect to procurement of new sedans and station wagons and procurement for installation in such vehicles already in service, are contained in FPMR 101-25.304, and 101-26.501.

(c) Special procedures relating to the delivery, inspection, and acceptance of motor vehicles are provided in FPMR 101-26.501-6. These special procedures are designed primarily to identify and report on deliveries of unsatisfactory motor vehicles ordered by GSA.

Subpart 109-38.52—Aircraft

§ 109-38.5200 Scope of subpart.

This subpart establishes basic policies and procedures that apply to the management of aircraft and aircraft services. The policies and procedures set forth herein are the minimum required, and the head of each field office operating aircraft shall issue such supplemental instructions as may be needed to ensure efficient management of aircraft.

§ 109-38.5201 Definitions.

As used in this subpart the following definitions apply:

(a) "Aircraft" means a device that is used or intended to be used for flight in the air, including: heavier than air and lighter than air aircraft, airplanes, gliders, helicopters, rigid and nonrigid airships, and balloons.

(b) "Chartered aircraft" are aircraft rented or hired on an intermittent basis, with or without a pilot or other operating aircrew members.

(c) "Leased aircraft" are aircraft obtained on a contractual basis, for a stipulated time interval, as distinguished from intermittent charter or short-term rental.

(d) "Military aircraft" are aircraft on loan from the Department of Defense (DOD).

(e) "Pilot" is an individual possessing the required FAA credentials and meeting the qualification requirements and other criteria as required by the employing office.

(f) "Part-time pilot" is one who is employed specifically to operate aircraft on a "when-needed" basis.

§ 109-38.5202 General.

Department-wide policies, standards, guidelines and procedures for management of aircraft and aviation services, necessary staff assistance, and general liaison with other Federal agencies are provided by the Director of Procurement and Contracts Management.

§ 109-38.5203 Aircraft safety.

(a) Policy development and general overview of aircraft safety in Departmental operations is exercised by the Assistant Secretary's for Environment operational and environmental safety staff.

(b) Minimum aviation operations and aircraft safety standards, criteria and procedures for DOE aviation operations shall be established by the Assistant Secretary's for Environment operational and environmental safety staff in coordination with the procurement and Contracts Management Directorate and heads of field offices. Heads of field offices may establish higher safety standards, criteria and procedures when they have determined that it is necessary to assure the safety of specific operations under their jurisdiction.

§ 109-38.5204 Pilot responsibility and authority.

(a) It shall be the responsibility of the pilot to be aware of and conform to Federal Aviation Regulations and other requirements of the Federal Aviation Administration, Departmental policies and field office directives, and the regulations and directives of other applicable authority, including those relating to use for official purposes only.

(b) The maintenance and repair of aircraft are also the responsibility of the pilot who shall be responsible for determining that the aircraft is airworthy and that the required FAA maintenance checks are performed periodically and on schedule.

(c) The pilot is at all times responsible for the safe operation of his aircraft and for the safety of his crew and passengers. Insofar as the loading of the aircraft, weather, mechanical, and other safety conditions are concerned, the pilot shall have final authority for determining whether a particular flight shall be continued or terminated and how it shall be made.

§ 109-38.5205 Acquisition of aircraft.

§ 109-38.5205-1 Statute.

(a) 31 U.S.C. 638a(b) provides that no appropriation shall be available for the purchase, maintenance or operation of any aircraft, unless specifically authorized by the appropriation concerned or other law. Such authority will generally be included in the annual appropriation acts for DOE. These acts usually are specific as to the number of aircraft which may be purchased and, whether they are to be "replacements" or "additions." Any authority for DOE to hire aircraft is also contained in these acts (although numbers are not specified).

(b) 31 U.S.C. 638a(e) provides that the acquisition of aircraft by any agency by transfer from another department of the Government shall be considered as a purchase within the meaning thereof.

§ 109-38.5205-2 Approval requirements.

(a) All proposed acquisitions of aircraft (with or without reimbursement) except for temporary (30 days or less) rentals or loans shall be referred to the Director of Procurement and Contracts Management for prior approval. Temporary rental or loans (30 days or less) may be approved by heads of field offices.

(b) The acquisition of specific aircraft by type shall be for Environment operational and environmental safety staff to assure that the selected aircraft type can perform the mission requirements safely and meet all applicable safety standards.

(c) Because of the limitation on the number of aircraft which DOE may acquire, replaced aircraft shall be removed from service and disposed of prior to or as soon as practicable after delivery of the replacement equipment to avoid concurrent operation of both aircraft.

§ 109-38.5205-3 Acquisition from excess sources.

Acquisition from excess sources is encouraged when there is specific authority for additional or replacement aircraft. Aircraft may also be acquired from excess sources for upgrading or replacement purposes, provided (a) that such acquisition is without reimbursement, and (b) that an equal number of aircraft is reported to GSA as excess within 30 days after delivery of the replacement aircraft. The aircraft being declared excess should not be routinely circularized within the Department. The SF 120, Report of Excess Property, shall be annotated to identify the GSA transfer order number shown on the transfer document for the replacement aircraft, and a copy of the SF 120 shall be forwarded to the Procurement and Contracts Management Director (PR-221). Prior to the acquisition of aircraft from any excess source, the Federal Aviation Administration should be contacted to ensure that the Federal Aviation Regulations authorize the type of operations to be conducted and that the aircraft can be certified as airworthy without extensive or costly modification.

§ 109-38.5205-4 Notification of acquisition authorization.

To assure that acquisitions do not exceed the number of aircraft authorized by statute to be acquired in any fiscal year, the Director of Procurement and Contracts Management shall inform DOE field offices each fiscal year of the number of aircraft which may be acquired. These authorizations shall not be exceeded.

§ 109-38.5206 Management responsibility.

The head of each field office having an aircraft operation shall establish procedures to ensure—

(a) That the acquisition of aircraft, including military aircraft, is centrally controlled to ensure that authorizations are not exceeded;

(b) That each aircraft is equipped with the instruments, accessories, radio, navigational aids, safety equipment, and survival gear necessary for the same performance of each operating mission, including the installation of aircraft crash position indicators as needed. Safety equipment shall include, as a minimum, seat belts and/or shoulder harnesses for the pilot and all passengers, at least one emergency fire extinguisher, and a first aid kit. Aircraft used on night flights and/or under other than visual flight rules (VFR) conditions shall be equipped for instrument flight (IFR). Life jackets shall be provided and readily available for all occupants of aircraft on extended overwater flights as defined in Federal Aviation Regulation 1.1. Aircraft on flights into isolated areas shall be equipped with emergency rations and appropriate survival gear;

(c) Conformance with Federal Aviation Administration requirements for the registration, certification, maintenance, and operation of aircraft, engines and component equipment;

(d) Selection of qualified pilots and crew members and the maintenance of pilot and crew competence commensurate with job requirements;

(e) Establishment of dispatching and tracking procedures or other controls that will assure knowledge of aircraft location when operating in areas where flight plan service is not available;

(f) Overall safe, efficient, and economical operation, maintenance, utilization, and replacement of aircraft;

(g) The pooling of usage as a means of increasing utilization;

(h) That contract or charter pilots are duly certified to meet all requirements and regulations established by the Federal Aviation Administration for the particular aircraft, and that chartered, leased, or rented aircraft are operated and maintained in compliance with all rules, regulations, and minimum standards of the Federal Aviation Administration. Any rental or hire of aircraft and operators meeting no more than the minimum basic operating standards of Part 91 of the Federal Aviation Regulations is discouraged, and such marginally safe aircraft and operators shall not be used to transport passengers or hazardous cargo; and

(i) That all pilots are aware of the provisions of 31 U.S.C. 638a(c)(2) which prohibits the use of any Government-owned or leased aircraft for other than official purposes (see subpart 109-38.54).

§ 109-38.5207 Registration and identification.

(a) Department-owned aircraft shall be registered with the Federal Aviation Administration. The certificate of registration shall be displayed in the aircraft in accordance with FAA requirements. A similar requirement shall be included in any arrangement for the charter, rent, hire, or lease of aircraft.

(b) All aircraft shall display markings as required by the Federal Aviation Regulations for registered aircraft of the United States.

§ 109-38.5208 Airworthiness.

With the exception of public use aircraft being operated under special regulations of the Federal Aviation Administration, all aircraft shall be required to have a currently effective Federal Aviation Administration Airworthiness Certificate appropriate to the propcsed usage. This certificate shall be displayed in the aircraft. Exceptions to this requirement are (a) uncertified aircraft may be ferried with minimum crew when there is a written determination by the head of the field office of his designee that the aircraft is safe for flight, and (b) aircraft obtained by transfer from the Department of Defense or the U.S. Coast Guard may be ferried incident to such transfer when the aircraft has been released as airworthy for flight.

§ 109-38.5209 Maintenance.

As a minimum, all aircraft, aircraft engines, propellers, accessories, and equipment shall be maintained and serviced in accordance with Federal Aviation Administration requirements for air carrier and non-air carrier aircraft, as appropriate, and the instructions of the manufacturer. All repairs and alterations shall be performed and approved in accordance with applicable FAA or military standards and requirements. Preventive maintenance inspections shall be made of the airframe, engine, and accessory equipment in conformance with the equipment manufacturer's recommendations and FAA or military requirements, as applicable.

§ 109-38.5210 Operation.

(a) Flight operations must comply with the Federal Aviation Regulations, and responsibility for such compliance rests with the pilot of the aircraft (§ 109-38.5204). Any special problem requiring deviation from the regulations shall be submitted through normal administrative channels to the Assistant Secretary's for Environment operational and environmental safety staff for review and possible referral to the FAA for an appropriate waiver. Such a waiver is required for all fixed-wing aircraft engaged in low-level flying, and any change of conditions shall be reported to the responsible FAA District Office.

(b) Flight plans are required for all flights over isolated areas, and are also required for flights under visual flight rules (VFR) conditions except where the flight is of a local nature. Where normal flight plan channels are not available, a flight dispatching and tracking procedure or other control shall be followed that will assure current knowledge by responsible DOE or DOE contractor personnel of the aircraft's operating plan and of its arrival at destination.

(c) Aircraft, engines, and equipment shall be operated within the operating limits prescribed by the manufacturer.

(d) Adequate preflight and in-flight check lists shall be provided to, and used by, all pilots. A visual preflight inspection shall be made by the pilot before each takeoff, and any deficiency which might affect the safety of the flight shall be corrected before takeoff.

(e) All flights shall be planned and conducted so that the aircraft will arrive over its destination with a fuel reserve sufficient to reach a planned alternate destination. Flights conducted under FAA Instrument Flight Rules shall be required to conform to FAA fuel time minimum requirements, or better.

§ 109-38.5211 Records.

As a minimum, flight, aircraft, and engine logs shall be maintained in accordance with FAA requirements, and records of operation and maintenance shall be maintained as required for management, budgetary and reporting purposes. Heads of field offices shall establish requirements for other records needed.

§ 109-38.5212 Reports.

(a) Reports shall be submitted as required by the Federal Aviation Administration, the National Transportation Safety Board, the Assistant Secretary's for Environment operational and environmental safety staff and others. Heads of field offices shall establish the requirements for other reports that may be needed for management or other purposes.

(b) All accidents involving aircraft shall be reported promptly to the National Transportation Safety Board, Federal Aviation Administration as required, the head of the field office concerned and the Assistant Secretary's for Environment operational and environmental safety staff.

Subpart 109-38.53—Cost Reductions Obtainable Through Cross-Servicing Arrangements for Motor Vehicle Fuel and Oil

§ 109-38.5300 Scope of subpart.

This subpart provides instructions for application of GSA Bulletin FPMR G-36, "Cost Reduction Obtainable Through Cross-Servicing Arrangements for Motor Vehicle Fuel and Oil," and submission of reports required by that Bulletin.

§ 109-38.5301 Submission of reports.

Headquarters and field offices shall prepare semi-annual reports as of September 30 and March 31 which will include the information requested in paragraph 5, GSA Bulletin FPMR G-36. The reports shall be submitted through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221) by October 10 and April 10 of each year. A negative report is required.

Subpart 109-38.54—Official Use of Motor Vehicles and Aircraft

§ 109-38.5400 Scope of subpart.

This subpart supplements FPMR Part 101-38, implements the provisions of statutes concerning the use of Government-owned or leased motor vehicles and aircraft for official purposes and prescribes policies and procedures governing the use of such vehicles and aircraft acquired for official purposes.

§ 109-38.5401 Statutory requirement.

(a)(1) 31 U.S.C. 638a(c)(2) provides "Unless otherwise specifically provided, no appropriation available for any department shall be expended * * * for the maintenance, operation, and repair of any Government-owned passenger motor vehicle or aircraft not used exclusively for official purposes; and 'official purposes' shall not include the transportation of officers and employees between their domiciles and places of employment, except in cases of medical officers on outpatient medical service and except in cases of officers and employees engaged in field work the character of whose duties makes such transportation necessary and then only as to such latter cases when the same is approved by the head of the department concerned. Any officer or employee of the Government who willfully uses or authorizes the use of any Government-owned passenger motor vehicle or aircraft or of any passenger motor vehicle or aircraft leased by the Government, for other than official purposes or otherwise violates the provisions of this paragraph shall be suspended from duty by the head of the department concerned, without compensation, for not less than one month and shall be suspended for a longer period or summarily removed from office if circumstances warrant * * *"

(2) The above quoted statute is interpreted to preclude reimbursement to Government contractors for the maintenance, operation or repair of Government-owned or leased passenger motor vehicles or aircraft which are used by contractor personnel for other than official purposes.

(b) Under the provisions of 18 U.S.C. 641, any person who knowingly misuses any Government property (which includes Government motor vehicles) is subject to criminal prosecution and, upon conviction, to fines up to $10,000 or imprisonment for up to 10 years.

§ 109-38.5402 Policy.

All Government-owned or leased motor vehicles and aircraft operated by DOE and its contractors shall be utilized for official purposes only, and officers, employees and contractors of the Department shall not use or authorize others to use any Government-owned or leased motor vehicle or aircraft for other than official purposes.

§ 109-38.5403 Official purposes.

(a) The term "official purposes" means those purposes required to carry out authorized programs, including program work carried out under contracts made pursuant to authority vested in the Department. "Official purposes" largely is a matter of administrative discretion and determination based on the particular facts of the case and the Government interest in the proposed use of the Government motor vehicle. It is the responsibility of the person authorizing or approving the use to examine the circumstances surrounding such use and assure that the facts sufficiently justify a conclusion of "official purpose."

(b) The term "field work" as used in 31 U.S.C. 638a quoted above refers to the nature of the work performance; it is not restricted to "field service" as distinguished from "Headquarters service."

§ 109-38.5404 Approval of authorizations.

(a) The Director of Administration and heads of field offices may approve the use of a Government-owned or leased motor vehicle between a DOE employee's domicile and place of employment. This authority may be redelegated. Redelegation shall not be below the chief administrative officer level.

(b) Heads of field offices and contracting officers shall require contractors to assure that—

(1) Contractors prescribe and issue, subject to approval by the head of the field office or contracting officer, such local written guidelines regarding the official use of motor vehicles or aircraft as may be necessary and appropriate for particular operating situations;

(2) The use of Government-owned or leased motor vehicles or aircraft by contractor employees for transportation between places of employment and domiciles, including their storage at or near such domiciles, conforms to official use policies and guidelines, and that they make and document appropriate administrative determinations, authorizations, or approvals for such use and storage by contractor employees at appropriate supervisory levels within the contractors' organizations.

(c) Except as provided in § 109-38.5407, the approving official shall determine the nature of the field duties of the employees which makes such transportation necessary. Approvals shall be in writing.

§ 109-38.5405 Duration of authorizations.

An authorization to use a motor vehicle for transportation between a domicile and place of employment shall be limited to the period of actual need. Where such need extends beyond a year, each authorization shall be limited to a single year. Requests for renewals of authorizations shall be subject to the same justification as original requests, and must also show what attempts were made during the original period to eliminate the necessity for the request.

§ 109-38.5406 Use of a motor vehicle to drive to residence at start of official travel.

The use of a Government motor vehicle by an officer or employee to drive to his residence when it is in the interest of the Government that he start on official travel in the vehicle from that point, rather than from his place of business, is not regarded as prohibited by 31 USC 638a(c)(2), (25. Comp. Gen. 844) or by Departmental policy.

§ 109-38.5407 Use of Government-owned or furnished motor vehicles in travel status.

The use of Government-owned or Government-furnished motor vehicles by Government employees while in travel status is governed by the Federal and DOE Travel Regulations.

§ 109-38.5408 Use of Government-owned or leased bus systems.

The provisions of this subpart do not affect passenger use of Government-owned or leased bus systems (regardless of type of vehicle used in such system) established under the provisions of section 161e of the Atomic Energy Act of 1954, as amended (42 USC 2201e).

§ 109-38.5409 Use of Government motor vehicles in emergencies.

In limiting the use of Government motor vehicles to official purposes, it is not intended to preclude their use in emergencies threatening loss of life or property (see § 109-1.5102). Such use shall be documented.

§ 109-38.5410 Use of motor vehicles by the Postal Service.

(a) Section 411 of the Postal Reorganization Act provides that executives agencies are authorized to furnish property and services to the Postal Service under such terms and conditions, including reimbursability, as the Postal Service and the agency concerned deem appropriate. Executive Order 11672 establishes a requirement for reimbursement at fair market value of such property or at a rate based on appropriate commercial charges for comparable property, as agreed to by the agency head and the Postmaster General, unless the Director of the Office of Management and Budget finds that a different basis of valuation is more equitable or better serves the public interest.

(b) Pursuant to the authority in 39 USC 411, motor vehicles may be made available to the Postal Service for temporary use, particularly during the Christmas season. The rental rate to be charged shall be the same as is charged by the General Services Administration for similar motor vehicles available from the interagency motor pool serving the geographical area involved, with appropriate allowances for any fuel and oil furnished by the Postal Service.

§ 109-38.5411 Instructions to motor vehicle operators.

Procedures shall be established to ensure that motor vehicle operators are informed concerning—

(a) The statutory requirement that motor vehicles shall be used only for official purposes;

(b) Personal responsibility for safe driving and operation of motor vehicles, and for compliance with Federal, State, and local laws and regulations, and all accident reporting requirements;

(c) Protection under the Federal Tort Claims Act (28 USC 2671) when acting within the scope of his/her employment;

(d) The penalties for unauthorized use of motor vehicles;

(e) The prohibition against picking up strangers or hitchhikers; and

(f) Any other duties and responsibilities assigned to motor vehicle operators with regard to the use, care, operation, and maintenance of motor vehicles.

PART 109-39—INTERAGENCY MOTOR VEHICLE POOLS

Subpart 109-39.3—Motor Vehicle Exemptions

Sec.

109-39.302 Unlimited exemptions.
109-39.303 Limited exemptions.

Subpart 109-39.4—Establishment, Modification, and Discontinuance of Motor Pools

Sec.
109-39.404-3 Problems involving service or cost.
109-39.404-4 Agency requests to withdraw participation.

Subpart 109-39.5—Services

109-39.502 Services available.
109-39.502-50 Commercially rented vehicles available through Interagency Motor Pools.

Subpart 109-39.6—Official Use of Government Motor Vehicles and Related Motor Pool Services

109-39.601 General requirements.
109-39.602 Authorized use.
109-39.602-1 Government vehicles.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SOURCE: 44 FR 1016, Jan. 3, 1979, unless otherwise noted.

Subpart 109-39.3—Motor Vehicle Exemptions

§ 109-39.302 Unlimited exemptions.

In those instances where it is determined that an unlimited exemption from inclusion of a vehicle in the Interagency Motor Pool System is warranted under the criteria set forth in FPMR 101-39.302, full particulars shall be forwarded to the Procurement and Contracts Management Directorate (PR-221) for consideration and possible referral to the Administrator of General Services.

§ 109-39.303 Limited exemptions.

The procedure established in § 109-39.302 shall be followed in seeking limited exemptions under the criteria set forth in FPMR 101-39.303.

Subpart 109-39.4 Establishment, Modification and Discontinuance of Motor Pools

§ 109-39.404-3 Problems involving service or cost.

To resolve problems involving motor pool service or cost, the affected field or Headquarters organization shall bring the matter to the attention of the chief of the motor pool providing the vehicles. In the event a satisfactory solution does not result, full particulars shall be forwarded to the Procurement and Contracts Management Directorate (PR-221), for consideration and possible referral to the Administrator of General Services.

§ 109-39.404-4 Agency requests to withdraw participation.

Should circumstances arise at a given interagency motor pool location which tend to justify discontinuance or curtailment of participation by a DOE organization, the participating organization should forward complete details to the Procurement and Contracts Management Directorate (PR-221) for consideration and possible referral to the Administrator of General Services.

Subpart 109-39.5—Services

§ 109-39.502 Services available.

§ 109-39.502-50 Commercially rented vehicles available through Interagency Motor Pools.

(a) Interagency motor pool locations, services, and rental rates are published periodically by GSA in a leaflet for the current information and guidance of Federal agencies. Availability of this publication and details concerning distribution are announced in GSA Bulletins.

(b) Details concerning the availability and arrangements for GSA contract commercial rental car services are contained in Federal Supply Schedule, Industrial Group 751, Motor Vehicle Rental Without Driver and in a leaflet, "Traveler's Pocket Guide." Copies may be obtained from GSA regional offices.

Subpart 101-39.6—Official Use of Government Motor Vehicles and Related Motor Pool Services

§ 109-39.601 General requirements.

(a) The head of each office operating leased vehicles is designated as responsible for certifying that leased vehicles larger than Type II (compact) are essential to the mission of the particular organization concerned.

(b) New requirements for leased vehicles on a nationwide basis shall be submitted to the Procurement and Contracts Management Directorate (PR-221), for transmittal to the General Services Administration.

§ 109-39.602 Authorized use.

§ 109-39.602-1 Government vehicles.

(a) Subpart 109-38.54, Official Use of Motor Vehicles and Aircraft, prescribes DOE policies and procedures governing the official use of Government motor vehicles.

(b) The heads of field offices and the Director of Administration are responsible for compliance with FPMR 101-39.602-1(b), which places limitations on the use of Government-owned or leased motor vehicles for official purposes.

PART 109-40—TRANSPORTATION AND TRAFFIC MANAGEMENT

Sec.
109-40.000 Scope of part.
109-40.000-50 Applicability to contractors.

Subpart 109-40.1—General Provisions

109-40.102 Representation before regulatory bodies.
109-40.103 Selection of carriers.
109-40.103-1 Domestic transportation.
109-40.103-2 Disqualification and suspension of carriers.
109-40.103-3 International transportation.
109-40.104 Use of Government owned transportation equipment.
109-40.109 Utilization of special contracts and agreements.
109-40.110 Assistance to economically disadvantaged transportation businesses.
109-40.110-1 Small business assistance.
109-40.110-2 Minority business enterprises.
109-40.112 Transportation factors in the location of Government facilities.
109-40.113 Insurance against transportation hazards.

Subpart 109-40.3—Traffic Management

109-40.301 Traffic management functions administration.
109-40.302 Standard routing principle.
109-40.303-3 Most fuel efficient carrier/mode.
Sec.
109-40.304 Rate tenders to the Government.
109-40.305-50 Negotiations involving national security.
109-40.306-1 Recommended rate tender format.
109-40.306-2 Required shipping documents and annotations.
109-40.306-3 Distribution.

Subpart 109-40.50—Bills of Lading

109-40.5000 Scope of subpart.
109-40.5001 Policy.
109-40.5002 Applicability.
109-40.5003 Commercial bills of lading.
109-40.5004 Government bills of lading.
109-40.5005 Description of property for shipment.

Subpart 109-40.51—Price-Anderson Coverage Certifications for Nuclear Shipments

109-40.5100 Scope of subpart.
109-40.5101 Policy.

AUTHORITY: Sec. 161, as amended, 68 Stat. 948; 42 U.S.C. 2201; sec. 205, as amended, 63 Stat. 390; 40 U.S.C. 486; sec. 644, 91 Stat. 585, 42 U.S.C. 7254.

SOURCE: 45 FR 80287, Dec. 4, 1980, unless otherwise noted.

§ 109-40.000 Scope of part.

This part describes DOE regulations governing transportation and traffic management activities. It also covers arrangements for transportation and related services by bill of lading. These regulations are designed to ensure that all transportation and traffic management activities will be carried out in the manner most advantageous to the Government in terms of economy, efficiency, service, environment, safety, and security.

§ 109-40.000-50 Applicability to contractors.

DOE-PMR 109-40, Transportation and Traffic Management, should be applied to cost-type contractors' transportation and traffic management activities. Departure by cost-type contractors from the provisions of these regulations may be authorized by the contracting officer provided the practices and procedures followed are consistent with the basic policy objectives in these regulations and except to the extent such departure is prohibited by statute or executive order.

Subpart 109-40.1—General Provisions

§ 109-40.102 Representation before regulatory bodies.

Participation in proceedings related to carrier applications to regulatory bodies for temporary or permanent authority to operate in specified geographical locations shall be confined to statements or testimony in support of a need for service and shall not extend to support of individual carriers or groups of carriers.

§ 109-40.103 Selection of carriers.

§ 109-40.103-1 Domestic transportation.

(a) Preferential treatment, normally, shall not be accorded to any mode of transportation (motor, rail, air, water) or to any particular carrier when arranging for domestic transportation service. However, where, for valid reasons, a particular mode of transportation or a particular carrier within that mode must be used to meet specific program requirements and/or limitations, only that mode or carrier shall be considered. Examples of valid reasons for considering only a particular mode or carrier are (1) where only a certain mode of transportation or individual carrier is able to provide the needed service or is able to meet the required delivery date; and (2) where the consignee's installation and related facilities preclude or are not conducive to service by all modes of transportation.

(b) The following factors are considered in determining whether a carrier or mode of transportation can meet DOE's transportation service requirements for each individual shipment:

(1) Availability and suitability of carrier equipment;

(2) Carrier terminal facilities at origin and destination;

(3) Pickup and delivery service, if required;

(4) Availability of required or accessorial and special services, if needed;

(5) Estimated time in transit;

(6) Record of past performance of the carrier; and

(7) Availability and suitability of transit privileges.

§ 109-40.103-2 Disqualification and suspension of carriers.

Disqualification and suspension are measures which exclude carriers from participation, for temporary periods of time, in DOE traffic. To ensure that the Government derives the benefits of full and free competition of interested carriers, disqualification and suspension shall not apply for any period of time longer than necesary to protect the interests of the Government.

§ 109-40.103-3 International transportation.

(See 4 CFR 52.2 for a certificate required in nonuse of U.S. flag vessels or U.S. flag certificated air carriers)

(a) U.S.-flag ocean carriers. Arrangements for international ocean transportation services shall be made in accordance with the provisions of section 901(b) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1241(b) concerning the use of privately owned U.S.-flag vessels.

(b) U.S.-flag certificated air carriers. Arrangements for international air transportation services shall be made in accordance with the provisions of section 5(a) of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517), which requires the use of U.S.-flag certificated air carriers for international travel of persons or property to the extent that service by these carriers is available.

§ 109-40.104 Use of Government owned transportation equipment.

The preferred method of transporting property for the Government is through use of the facilities and services of commercial carriers. However, Government vehicles may be used when they are available to meet emergencies, and accomplishment of program objectives which cannot be attained through use of commercial carriers.

§ 109-40.109 Utilization of special contracts and agreements.

From time to time special transportation agreements are entered into on a Government-wide or a DOE-wide basis and are applicable, generally to DOE shipments. The DOE-HQ Director, Transportation Operations Staff, will distribute information on such agreements to field offices as it becomes available.

§ 109-40.110 Assistance to economically disadvantaged transportation businesses.

§ 109-40.110-1 Small business assistance.

Consistent with the policies of the Government with respect to small businesses, DOE shall place with small business concerns a fair proportion of the total purchases and contracts for transportation and related services such as packing and crating, loading and unloading, and local drayage.

§ 109-40.110-2 Minority business enterprises.

Minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts. DOE shall identify transportation-related minority enterprises and encourage them to provide services that will support the DOE's transportation requirements.

§ 109-40.112 Transportation factors in the location of Government facilities.

Transportation rate, charges, and commercial carrier transportation services shall be considered and evaluated prior to the selection of new site locations and during the planning and construction phases in the established of leased or relocated Government installations or facilities to ensure that consideration is given to the various transportation factors that may be involved in this relocation or deactivation.

§ 109-40.113 Insurance against transportation hazards.

The policy of the Government with respect to insurance of its property while in the possession of commercial carriers is set forth in 41 CFR 1-19.107.

Subpart 109-40.3—Traffic Management

§ 109-40.301 Traffic management functions administration.

The DOE traffic management functions are accomplished by established field traffic offices under provisions of appropriate Departmental directives and headquarters' staff traffic management supervision.

§ 109-40.302 Standard routing principle.

(a) Shipments shall be routed using the mode of transportation, or individual carriers within the mode, that can provide the required service at the lowest overall delivered cost to the Government.

(b) When more than one mode of transportation, or more than one carrier within a mode, can provide equally satisfactory service at the same overall cost the traffic shall be distributed as equitably as practicable among the modes and among the carriers within the modes.

§ 109-40.303-3 Most fuel efficient carrier/mode.

When more than one mode, or more than one carrier within a mode, can satisfy the service requirements of a specific shipment at the same lowest aggregate delivered cost, the carrier/mode determined to be the most fuel efficient will be selected. In determining the most fuel efficient carrier/mode, consideration will be given to such factors as use of the carrier's equipment in "turn around" service, proximity of carrier equipment to the shipping activity, and ability of carriers to provide the most direct service to the destination points.

§ 109-40.304 Rate tenders to the Government.

Under the provisions of section 10721 (formerly section 22) of the Interstate Commerce Act (49 U.S.C. 10721), common carriers are permitted to submit to the Government tenders which contain rates lower than published tariff rates available to the general public. In addition, rate tenders may be applied to shipments other than those made by the Government provided the total benefits accrue to the Government; that is, provided the Government pays the charges or directly and completely reimburses the party that initially bears the freight charges (323 ICC 347 and 332 ICC 161).

§ 109-40.305-50 Negotiations involving national security.

Title 49 U.S.C., section 10721(b)(2) provides that rate tenders to the Government must be filed by the carriers with the Interstate Commerce Commission unless "a carrier is advised by the U.S. Government that disclosure of a quotation or tender of a rate established . . . for transportation provided to the U.S. Government would endanger the National security." Carriers will be informed by the negotiating official if any quotation or tender to the Department of Energy involves such information.

§ 109-40.306-1 Recommended rate tender format.

Only those rate tenders which have been submitted by the carriers in writing shall be considered for use. Carriers should be encouraged to use the format "Uniform Tender of Rates and/or Charges for Transportation Services" when preparing and submitting rate tenders to the Government. Rate tenders that are ambiguous in meaning shall be resolved in favor of the Government.

§ 109-40.306-2 Required shipping documents and annotations.

(a) To qualify for transportation under section 10721 rates, property must be shipped by or for the Government on:

(1) Government bills of lading;

(2) Commercial bills of lading endorsed to show that these bills of lading are to be converted to Government bills of lading after delivery to the consignee:

(3) Commercial bills of lading showing that the Government is either the consignor or the consignee and endorsed with the following statement:

> Transportation hereunder is for the U.S. Department of Energy, and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are assignable to, and are to be reimbursed by, the Government.

(b) When a rate tender is used for transportation furnished under a cost-reimbursable contract, the following endorsement shall be used on covering commercial bills of lading:

> Transportation hereunder is for the U.S. Department of Energy and the actual total transportation charges paid to the carrier(s) by the consignor or the consignee are to be reimbursed by the Government, pursuant to cost-reimbursable contract number ( ). This may be confirmed by contacting the agency representative at (name and telephone number). (See 332 ICC 161.)

(c) To ensure proper application of a Government rate tender on all shipments qualifying for their use, the issuing officer shall show on the bills of lading covering such shipments the applicable rate tender number and carrier identification: such as, "Section 10721 tender, ABC Transportation Company, ICC No. 374." In addition, if commercial bills of lading are used, they shall be endorsed as specified above.

§ 109-40.306-3 Distribution.

Each agency receiving rate tenders shall promptly submit one signed copy to the Transportation and Public Utilities Service (WIT), General Services Administration, Washington, DC 20407. Also, two copies (including at least one signed copy) shall be promptly submitted to the General Services Administration (TA). Chester A. Arthur Building, Washington, DC 20406.

Subpart 109-40.50—Bills of Lading

§ 109-40.5000 Scope of subpart.

This subpart sets forth the requirements under which commercial or Government bills of lading may be used.

§ 109-40.5001 Policy.

Generally DOE cost-type contractors will use commercial bills of lading in making shipments for the account of the DOE. Cost-type contractors may be authorized by the contracting officer to use Government bills of lading if such use will be advantageous to the Government. Such authorizations shall be coordinated with the DOE-HQ Director, Transportation Operations Staff.

§ 109-40.5002 Applicability.

The policy and procedures set forth in this subpart shall be applied when DOE's cost-type contractors use commercial bills of lading.

§ 109-40.5003 Commercial bills of lading.

(a) DOE's cost-type contractors using commercial bills of lading in making shipments for the account of the DOE shall include the following statement or one substantially the same on all commercial bills of lading:

> This shipment is for the account of the U.S. Government which will assume the freight charges and is subject to the terms and conditions set forth in the standard form of the U.S. Government bills of lading and to any available special rates or charges.

(b) The foregoing language may be varied without materially changing its substance to satisfy the needs of particular cost-type contractors for the purpose of obtaining the benefit of the lowest available rates for account of the Government.

(c) Where practicable, commercial bills of lading shall provide for consignment of a shipment to the DOE c/o the cost-type contractor or by the contractor "for the DOE."

(d) Commercial bills of lading exceeding $10,000 issued by cost-type contractors shall be annotated with a typewritten, rubber stamp, or similar impression containing the following wording:

> Equal Employment Opportunity. All provisions of Executive Order 11246 as amended by Executive Order 11375 and of the rules, regulations, and relevant orders of the Secretary of Labor are incorporated herein.

§ 109-40.5004 Government bills of lading.

(a) In those instances where DOE cost-type contractors are authorized to use Government bills of lading, specific employees of cost-type contractors will be authorized by the contracting officer to issue such Government bills of lading (see Title V, U.S. Government Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies).

§ 109-40.5005 Description of property for shipment.

(a) Each shipment shall be described on the bill of lading or other shipping document as specified by the governing freight classification, carrier's tariff, or rate tender. Shipments shall be described as specifically as possible. Trade names such as "Foamite" or "Formica" or general terms such as "vehicles," "furniture," or "Government supplies," shall not be used as bill of lading descriptions.

(b) A shipment containing hazardous materials, such as explosives, radioactives, flammable liquids, flammable solids, oxidizers, or poison A or poison B, shall be prepared for shipment and described on bills of lading or other shipping documents in accordance with the Department of Transportation Hazardous Materials Regulations, 49 CFR, parts 100-189.

Subpart 109-40.51—Price-Anderson Coverge Certifications for Nuclear Shipments

§ 109-40.5100 Scope of subpart.

This subpart sets forth the policy for issuance of certifications regarding Price-Anderson coverage of particular shipments of nuclear materials.

§ 109-50.5101 Policy.

Upon request of a carrier, an appropriate certification will be issued by an authorized representative of the DOE to the carrier regarding the applicability of Price-Anderson indemnity to a particular shipment. Copies of such certifications if performed by a Field Manager or a DOE cost-type contractor shall be provided to the DOE/HQ Director, Transportation Operations Staff.

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 109-42—PROPERTY REHABILITATION SERVICES AND FACILITIES

Sec.
109-42.000 Scope of part.
109-42.000-50 Applicability.

Subpart 109-42.3—Recovery of Precious Metals and Critical Materials

109-42.301-1 Guidelines for conducting intra-agency surveys.
109-42.301-2 Reporting to GSA.
109-42.302 Recovery of silver from used hypo solution and scrap film.
109-42.350 Platinum and platinum family.

Subpart 109-42.50—Reclamation of Wastepaper

109-42.5000 Scope of subpart.
109-42.5001 Policy.
109-42.5002 Definition.
109-42.5003 Responsibilities and authorities.
109-42.5003-1 Responsibility for Department-wide coordination.
109-42.5003-2 Responsibility for implementing and conducting wastepaper recovery programs.
109-42.5004 Reports.

Authority: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

Source: 44 FR 1017, Jan. 3, 1979, unless otherwise noted.

§ 109-42.000 Scope of part.

This part implements and supplements FPMR Part 101-42, Property Rehabilitation Services and Facilities.

§ 109-42.000-50 Applicability.

The provisions of FPMR 101-42 and this part apply to contractors which generate used hypo solution, scrap film, other precious metals scrap and other recoverable scrap materials.

Subpart 109-42.3—Recovery of Precious Metals and Critical Materials

§ 109-42.301-1 Guidelines for conducting intra-agency surveys.

The intra-agency survey required by FPMR 101-42.301-1 shall be prepared by each DOE organization and contractor that has no precious metal recovery program as directed by the Director of Procurement and Contracts Management. The format of the report is included in FPMR 101-42.4801.

§ 109-42.301-2 Reporting to GSA.

(a) The annual silver or other precious metals recovery report required by FPMR 101-42.301-2 shall be prepared by each DOE organization and contractor conducting a precious metal recovery program. The format of the report is included in FPMR 101-42.4802. Negative reports are required. A report shall also be submitted providing applicable information in those instances where activities use indirect methods of recovery by shipping the hypo solution or scrap film to another recovery activity or by disposal by sale.

(b) Individual reports shall cover the entire fiscal year and shall be forwarded to the appropriate field office for forwarding to the Procurement and Contracts Management Directorate (PR-221) not later than 30 days after the end of each fiscal year.

§ 109-42.302 Recovery of silver from used hypo solution and scrap film.

A program for recovery of silver from used hypo solution and scrap film is established for DOE. All DOE organizations and contractors shall recover silver from hypo solution and scrap film where economically feasible. Where and activity generates minimal amounts of hypo solution, consideration shall be given to combining output with another recovering activity as contemplated in FPMR 101-42.301-1.

§ 109-42.350 Platinum and platinum family.

See § 109-43.313-52 for procedures for reporting excess platinum for recovery and subsequent redistribution within DOE.

Subpart 109-42.50—Reclamation of Wastepaper

§ 109-42.5000 Scope of subpart.

This subpart implements and supplements 40 CFR 246, "Materials Recovery Guidelines for source Separation" as issued by the Environmental Protection Agency (EPA), states DOE policy on reclamation of paper, and prescribes authorities and responsibilities of Heads of Headquarters organizations, heads of field offices, and other contracting officers.

§ 109-42.5001 Policy.

It is DOE policy that a program for recovery and reclamation of wastepaper shall be established at any DOE facility where such recovery is economically feasible, i.e., implementation and operating costs are not greater than revenue derived, in accordance with the criteria contained in 40 CFR 246.

§ 109-42.5002 Definition.

"DOE facilities" as used in this subpart means Government-owned or leased buildings operated by DOE personnel or operating and onsite service contractors.

§ 109-42.5003 Responsibilities and authorities.

§ 109-42.5003-1 Responsibility for Department-wide coordination.

The Director of Procurment and Contracts Management is responsible for (a) representing the Department with EPA and other Federal agencies on matters relating to the recovery and reclamation of wastepaper at DOE facilities, (b) consolidating the Departmental reports on recovery of wastepaper for submission EPA, and (c) providing staff assistance to DOE organizations implementing the guidelines contained in 40 CFR 246.

§ 109-42.5003-2 Responsibility for implementing and conducting wastepaper recovery programs.

The Director of Administration, heads of field offices, and contracting officers are responsible for implementation and conduct of a wastepaper recovery program in accordance with 40 CFR 246 at DOE facilities under their cognizance and shall submit the required reports to the Procurement and Contracts Management Directorate (PR-221) within 30 days after the end of each fiscal year in the format illustrated in § 109-42.5004.

§ 109-42.5004 Reports.

Wastepaper recovery reports shall be submitted in the following format:

Facility name and address	No. of office workers	Implementation date	Tons of wastepaper recovered	Revenue received

PART 109-43—UTILIZATION OF PERSONAL PROPERTY

Sec.
109-43.000 Scope of part.
109-43.000-50 Applicability.
109-43.001 Definitions.
109-43.001-5 Excess personal property.
109-43.001-14 Personal property.
109-43.001-50 Nonreportable property.
109-43.001-51 Platinum.
109-43.001-52 Reportable property.

Subpart 109-43.1—General Provisions

109-43.101 Surveys.
109-43.102 Reassignment of property within executive agencies.
109-43.103 Agency utilization officials.

Subpart 109-43.3—Utilization of Excess

Sec.
109-43.301-50 Policy.
109-43.302 Agency responsibility.
109-43.302-50 Utilization and disposal by contractors.
109-43.303-1 Acquisition of mercury.
109-43.306 Property not required to be reported.
109-43.311-1.50 Circularization within DOE.
109-43.311-5 Property at installations due to be discontinued.
109-43.312 Exceptions to reporting.
109-43.313 Items requiring special handling.
109-43.313-2 Printing, binding, and blank-book equipment and supplies.
109-43.313-50 Classified property.
109-43.313-51 Naval gun mounts.
109-43.313-52 Platinum and platinum family.
109-43.313-53 Shielding material.
109-43.313-54 Property in which the Government has an interest.
109-43.313.55 Department of Defense excess.
109-43.315-5 Procedure for effecting transfers.
109-43.317 Costs and proceeds.
109-43.317-1 Cost of care and handling.
109-43.317-2 Proceeds.
109-43.319 Use of excess property on cost-reimbursement type contracts.
109-43.320 Use of excess property on grants.
109-43.321 Certification of non-Federal agency screeners.

Subpart 109-43.5—Utilization of Foreign Excess Personal Property

109-43.503 Holding agency responsibilities.
109-43.504-50 Disposition of property not selected for return to the United States.

Subpart 109-43.47—Reports

109-43.4701 Performance reports.

Subpart 109-43.51—Utilization of Personal Property Held for Facilities in Standby

109-43.5100 Scope of subpart.
109-43.5101 Definition.
109-43.5102 Policy.
109-43.5103 Reviews to determine need for retaining items.
109-43.5104 Utilization of property in facilities in standby status.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SOURCE: 44 FR 1018, Jan. 3, 1979, unless otherwise noted.

§ 109-43.000 Scope of part.

This part implements and supplements FPMR Part 101-43, Utilization of Personal Property.

§ 109-43.000-50 Applicability.

The provisions of FPMR Part 101-43 and this part are applicable to contractors unless otherwise provided herein.

§ 109-43.001 Definitions.

§ 109-43.001-5 Excess personal property.

The definition of excess personal property in FPMR 101-43.001-5 is supplemented to provide that excess personal property, generally referred to herein as "excess property," means personal property which is—

(a) Under the control of a DOE organization or contractor and not required for the holder's needs or in the discharge of its responsibilities and which has been documented as excess by a responsible DOE or contractor official having responsibility for its custody and accountability; or

(b) Under the control of any Federal agency, including DOE, and not required for its needs or the discharge of its responsibilities. Property is not considered to be excess to DOE until it has been determined that no requirement for the property exists within the Department.

§ 109-43.001-14 Personal property.

The definition in FPMR 101-43.001-14 is modified to read as follows: Personal property means property of any kind or type except real property; records; special source materials, which includes source materials and special nuclear material, and those other materials to which the provisions of DOE Manual Part 7400 apply, such as deuterium, enriched lithium, neptunium 237 and tritium, and atomic weapons and byproduct materials as defined in Section 11 of the Atomic Energy Act of 1954, as amended; enriched uranium in stockpile storage; and petroleum being held in reserve in the Strategic Petroleum Reserve and the Naval Petroleum Reserve.

§ 109-43.001-50 Nonreportable property.

"Nonreportable property" is excess personal property which is not required to be formally circularized within DOE or reported to GSA.

§ 109-43.001-51 Platinum.

"Platinum" means platinum family, including platinum, palladium, rhodium, iridium, ruthenium and osmium.

§ 109-43.001-52 Reportable property.

"Reportable property" is excess personal property which is required to be formally circularized within DOE and, if not required within DOE, reported to GSA.

Subpart 109-43.1—General Provisions

§ 109-43.101 Surveys.

Each organization holding Government personal property shall continuously survey property under its control to assure efficient use and shall promptly make property excess to its needs available for use elsewhere. See § 109-25.109-1 for DOE policy on the conduct of management walk-through inspection tours to identify idle and unneeded equipment.

§ 109-43.102 Reassignment of property within executive agencies.

See DOE Order 2200, Chapter XI for preparation of the feeder reports upon which the consolidated DOE report of internal property reassignments is based.

§ 109-43.103 Agency utilization officials.

The director of Procurement and Contracts Management shall designate the DOE National Utilization Officer.

Subpart 109-43.3—Utilization of Excess

§ 109-43.301-50 Policy.

It is the policy of DOE to consider excess property as the first source of supply. In no case, however, will excess property be acquired unless a present or foreseeable program need exists for the property. In carrying out this policy, the objective of which is to obtain maximum effective and economical utilization of property already owned by the Federal Government, consideration should be given to such factors as—

(a) Nature and cost of any repairs required to restore excess equipment to a safe, dependable, and economical operating condition;

(b) Duration of the job on which the equipment will be used;

(c) Economic feasibility of ownership vs. loan or rental of the equipment. Frequency of use, particularly where the equipment will be needed only infrequently, is one of the factors which must be considered in determining the most economical method of acquisition; and

(d) Handling and transportation costs involved in acquisition of excess property.

§ 109-43.302 Agency responsibility.

Procedures shall be established to assure the effective conduct of the excess property utilization program and to assure, to the fullest extent practicable, that excess personal property available within DOE or from other Federal agencies is used as a first source of supply in fulfilling requirements.

§ 109-43.302-50 Utilization and disposal by contractors.

Heads of field offices may authorize contractors to perform the functions pertaining to utilization and disposal of excess property, provided such activities are in accordance with written policies and procedures which they have approved as being consistent with this part and those contained in FPMR Part 101-45 and DOE-PMR Part 109-45.

§ 109-43.303-1 Acquisition of mercury.

Notwithstanding the provisions of FPMR 101-43.303-1, requests for 76 pound flasks of mercury, for use by DOE or its contractors, shall be forwarded to the Director, Supply Division, Oak Ridge Operations Office, Oak Ridge, Tennessee.

§ 109-43.306 Property not required to be reported.

To the extent practicable and economical, notification of availability of nonreportable excess property shall be made on an informal basis to other DOE installations and other Federal agencies known to use such property. If no requirement is established within a reasonable time, usually not more than 30 days after the availability of the property is announced, the property will be considered surplus to the needs of the Government.

§ 109-43.311-1.50 Circularization within DOE.

(a) Prior to reporting excess personal property to GSA as required by FPMR 101-43.311-1, reportable property shall be listed and circularized as available excess within DOE using Standard Form 120, "Report of Excess Personal Property" and Standard Form 120a, "Continuation Sheet." Distribution patterns, points of contact, and number of copies of excess lists to be sent to DOE installations shall be issued annually by the Procurement and Contracts Management Directorate (PR-221) based on information submitted by the field offices. Revisions during the year shall be coordinated with the appropriate contacts by the DOE offices concerned. In cases where time does not permit the circularization of excess lists, notification of the availability may be made by telegram, teletype or telephone, with due consideration to the additional costs involved.

(b) A period of at least 15 calendar days from the date of transmittal should be allowed potential users within DOE to request the transfer of items listed. When necessary, an additional 15 calendar days may be allowed to permit potential users to inspect the property or to obtain additional information regarding the items on the list. Concurrent circularization of lists of DOE excess property within DOE and to other Federal agencies generally shall not be permitted.

(c) If, after DOE circularization, reportable property is known to be needed by another Federal agency, it shall be transferred as provided in FPMR 101-43.315-5(a).

§ 109-43.311-5 Property at installations due to be discontinued.

(a) In closing out installations or any activities where it is important that upon completion of the work the personnel be released and activities ended as quickly as possible in order to avoid large expenditures, arrangements may be made for expediting the utilization and disposal of excess inventories and other excess property. (See DOE-PR 9-8 for special provisions regarding disposition of contractor inventories arising out of termination of contracts.)

(b) DOE field organizations shall work with appropriate GSA regional offices to develop a utilization and disposal program which takes into consideration all the factors involved, is expedited to the maximum degree, and is mutually satisfactory and in the best overall interest of the Government. When closeout involves an activity which is not located geographically in a DOE installation, information concerning the situation shall be given to the appropriate regional administrator of GSA, as early as possible, by letter (copy to the Procurement and Contracts Management Directorate (PR-221)). The information should include the types of property available and indicate that the activity is to be discontinued, the scheduled date for the removal of personnel from the location, and the last dates when the property will be needed. The following guidelines are furnished for possible use, although variations may be used as long as agreement is reached with GSA and there is no conflict with DOE requirements except as noted in paragraph (b)(1) of this section:

(1) If a proposed expedited program provides for deviation from the DOE policy or procedural requirements, approval of the Director of Procurement and Contracts Management shall be obtained.

(2) Approval of the proposed plan by the appropriate GSA regional office, when deviation from existing GSA regulations is involved, will be sufficient to validate the plan. A copy of the approval plan should be forwarded for information to the Procurement

and Contracts Management Directorate (PR-221).

(3) In developing an expedited disposal program, property shall be determined to be excess to DOE before it is reported to GSA. Concurrent circularization of lists of DOE excess property within DOE and to other Federal agencies generally is not permitted.

(4) Summary catalog listings of certain categories of excess property, such as property in classes 48, 51, 55, 56, etc., showing estimated release dates, might be furnished GSA with good utilization results. On the other hand, excess property in such classes as 23, 24, 32, 34 and 38 shall normally be listed by individual item with sufficient description for ready identification.

(5) In order to obtain maximum utilization of the property by other Federal agencies, the plan shall provide that the field office will furnish assistance to GSA, upon request, to arrange for invitational inspections by Federal agency representatives.

(6) Upon request, DOE can provide assistance to GSA in its circularization of reportable items to other Federal agencies or in locating potential users within the government.

(7) Care should be exercised to be sure that orders from other Federal agencies for excess property are processed through GSA, as may be required by the GSA regional office concerned.

(8) Although it may be possible to arrange for expediting donations for educational, public health, or civil defense purposes, adequate time must be allowed for the screening of all donable property.

(9) Provisions should be made for accelerated release by GSA of excess property for disposal as surplus, particularly where there is little or no potential use by other Federal agencies.

(10) Methods should be developed whereby last minute requests for surplus property, cataloged for an auction sale or listed in a sealed bid invitation and inspected by prospective bidders, can be kept to a minimum.

§ 109-43.312 Exceptions to reporting.

In addition to the categories of nonreportable property identified in FPMR 101-43.312 (a) through (g), the following property, when determined excess to a DOE installation, is not reportable and shall not be formally circularized within DOE or reported to GSA—

(h) Asphalt products in less than carload (LCL) quantities (roofing tile, paving materials);

(i) Cement and fabricated cement products in LCL quantities (concrete block, pumic block, cinder block, pipe and fittings);

(j) Fabricated clay products in LCL quantities (brick, title, pipe and fittings);

(k) Fuels in LCL quantities (gasoline, diesel fuels, coal and coke and kerosene);

(l) Special purpose or site fabricated shelving, cabinets, shop tables, etc., of limited adaptability or with high cost of disassembly or transportation;

(m) Uncrated window glass; and

(n) Equipment, parts, accessories, jigs and components, which are of special design, composition, or manufacture and which are intended for use only by specific DOE installations, such as spare parts for equipment used in atomic processes.

§ 109-43.313 Items requiring special handling.

§ 109-43.313-2 Printing, binding, and blankbook equipment and supplies.

DOE installations shall report excess printing, binding and blankbook equipment to the Office of Administration for processing in accordance with the Joint Committee on Printing Regulations.

§ 109-43.313-50 Classified property.

Classified personal property which is excess to DOE needs shall be stripped of all characteristics which cause it to be classified, or otherwise rendered unclassified prior to disposal, in accordance with instructions of the head of the field office concerned. Declassification shall be accomplished in a manner which will preserve, so far as practicable, any civilian utility or commercial value of the property.

§ 109-43.313-51 Naval gun mounts.

When a naval gun mount obtained from the Naval Sea Systems Command, Department of the Navy, becomes excess, it may be listed, circularized, and transferred within DOE in the same manner as other excess property. However, when a naval gun mount is determined to be excess to DOE, it shall be reported to the Department of the Navy, Naval Sea Systems Command, Washington, D.C. 20360, and shall not be disposed of except in accordance with instructions of that Department.

§ 109-43.313-52 Platinum and platinum family.

All precious metals in the platinum family which become excess shall be reported to the Chicago Operations Office for recovery and/or subsequent redistribution within DOE. It is intended that any platinum which is not needed for current or foreseeable requirements shall be reported to the Chicago Operations Office. This means platinum in any form, including shapes, scrap, or which is radioactively contaminated. The Chicago Operations Office will furnish necessary shipping instructions. (For pricing of transfers, see DOE Order 2200, Chapter III.)

§ 109-43.313-53 Shielding material.

All excess movable shielding material of any type will be circularized within DOE using normal excessing procedures. However, prior to disposal outside DOE (by transfer to other Federal agencies or by sale), the Procurement and Contracts Management Directorate (PR-221) shall be advised concerning the types and quantities which remain available.

§ 109-43.313-54 Property in which the Government has an interest.

Personal property in which the Government has an interest means (a) Government-owned property which is available for exchange or sale and (b) property leased with an option to purchase. Such property shall be circularized within DOE for possible utilization whenever it is practicable to do so, considering the contract terms, cost in relation to remaining useful life, location of item, purchase option time remaining, etc.

§ 109-43.313-55 Department of Defense excess.

An interagency agreement between DOE and the Department of Defense has been executed which permits certain DOE contractors to screen excess property listings from the Defense Property Disposal Service concurrently with military activities for use in support of DOE/DOD programs.

§ 109-43.315-5 Procedure for effecting transfers.

Notwithstanding the provisions of FPMR 101-43.315-5(b), in accordance with a DOE agreement with GSA, execution of transfer orders by a DOE official is not required in those cases where heads of field offices have authorized contractors to perform this function, and GSA has been notified of such authorization. GSA regional offices will furnish the cognizant DOE field office a copy of each transfer order received from contractors. This copy of the transfer order will be reviewed by the cognizant DOE field office to determine if the contractor has been authorized to submit orders for excess property. If the contractor submitting the transfer order to the GSA regional office has not been authorized in writing to submit such orders, GSA will not honor such requests unless they are subsequently executed by an appropriate DOE official.

§ 109-43.317 Costs and proceeds.

§ 109-43.317-1 Cost of care and handling.

DOE field offices and contractors shall comply with the provisions of DOE Order 2200, Chapter III as they relate to billings for direct costs incurred in the transfer of excess property.

§ 109-43.317-2 Proceeds.

For DOE procedures on the handling of proceeds from transfer of excess property to another Government agency with reimbursement, see DOE Order 2200, Chapter III.

§ 109-43.319 Use of excess property on cost-reimbursement type contracts.

(b) It is DOE policy for operating and on-site service contractors to use Government excess personal property to the maximum extent possible to reduce contract costs. However, the determination required in FPMR 101-43.319(b) does not apply to such contracts and the acquisitions of Government excess personal property by these contractors are not subject to the annual reporting requirements of FPMR 101-43.4701(c). The procedures prescribed in § 109-43.315-5 for execution of transfer orders apply.

§ 109-43.320 Use of excess property on grants.

The requirements of FPMR 101-43.320 do not apply to operating and on-site service contracts.

§ 109-43.321 Certification of non-Federal agency screeners.

Contracting officers shall maintain a record of the number of certified non-Federal agency screeners operating under their authority and shall immediately notify the appropriate GSA regional office of any changes in screening arrangements.

Subpart 109-43.5—Utilization of Foreign Excess Personal Property

§ 109-43.503 Holding agency responsibilities.

(a) Property which remains excess after utilization screening within the general foreign geographical area where the property is located should be reported to the Procurement and Contracts Management Directorate (PR-221) for consideration for return to the U.S. for further utilization within DOE, by other Government agencies, or for donation, based on such factors as cost, residual value, usefulness in ongoing or future programs, condition, and cost of transportation.

(b) If determined to be in the interest of the Government for return to the U.S., the property shall be reported on excess listings (SF 120) to the accountable field office or Headquarters program organization. These listings should contain information on location and available transportation facilities in addition to the detailed descriptions required by FPMR 101-43.4901-120-1. The field office or Director of Administration, acting for the responsible Headquarters program organization, will circularize the property within DOE. If not claimed by a DOE activity, it shall be reported to the Procurement and Contracts Management Directorate (PR-221) for coordination with GSA.

§ 109-43.504-50 Disposition of property not selected for return to the United States.

Property not selected for return to the U.S. for utilization within DOE or the Government or for donation in accordance with FPMR 101-44.7 shall be disposed of in accordance with § 109-45.5105.

Subpart 109-43.47—Reports

§ 109-43.4701 Performance reports.

Instructions for submission of financial data for the reports required in FPMR 101-43.4701 (a) and (b) are contained in DOE Order 2200, Chapter XI. The report prescribed in FPMR 101-43.4701(c) does not apply to excess property acquired by operating and on-site service contractors.

Subpart 109.43.51—Utilization of Personal Property Held for Facilities in Standby

§ 109-43.5100 Scope of subpart.

This subpart supplements FPMR Part 101-43 by providing policies and procedures for the economic and efficient utilization of personal property associated with facilities placed in standby status.

§ 109-43.5101 Definition.

"Facility in standby" is a significant segment of plant and equipment, such as a complete plant or section of a plant, which is neither "in service" or declared "excess."

§ 109-43.5102 Policy.

Procedures and practices shall be established to assure economical and efficient utilization of property associated with facilities placed in standby status as provided for in this subpart.

§ 109-43.5103 Reviews to determine need for retaining items.

Procedures and practices shall be established which require an initial review at the time the plant is placed in standby to determine which items can be made available for use elsewhere within the established startup criteria, periodic reviews (no less than biennially) to determine need for continued retention of property, and special reviews when a change in startup time is made or when circumstances warrant. Such procedures should recognize that (a) generally, equipment, spares, stores items, and materials peculiar to a plant should be retained for possible future operation of the plant, (b) where practicable, common-use stores should be removed and used elsewhere, and (c) uninstalled equipment and other personal property not required should be utilized elsewhere onsite or be disposed of as excess.

§ 109-43.5104 Utilization of property in facilities in standby status.

(a) Procedures and practices shall be established which require that property comprising the plant in standby, to the extent consistent with program requirements reflected by the startup criteria, be considered as a source of supply prior to procurement. Such procedures should provide for (1) furnishing potential users and procurement officers or some other reponsible screening office, both onsite and offsite, listings of equipment and other significant property holdings available for loan or transfer, and (2) removal and use elsewhere of installed equipment which can be replaced or returned within the established startup criteria.

(b) In addition to the above procedures, organizations should encourage informal contacts between their technical staffs and those engaged in similar work at other DOE locations for the purpose of ascertaining the availability of Government property to meet their program requirements.

PART 109-44—DONATION OF PERSONAL PROPERTY

Sec.
109-44.000 Scope of part.
109-44.000-50 Policy.
109-44.000-51 Responsibilities and authorities.

Subpart 109-44.3—Donation of Foreign Excess Personal Property

109-44.301 Holding agency responsibility.
109-44.305 Costs incurred incident to donation.

Subpart 109-44.47—Reports

109-44.4701 Reports.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SOURCE: 44 FR 1021, Jan. 3, 1979, unless otherwise noted.

§ 109-44.000 Scope of part.

This part implements and supplements FPMR Part 101-44, Donation of Personal Property. For donation of surplus personal property in foreign areas, see § 109-45.51.

§ 109-44.000-50 Policy.

It is the policy of the DOE to cooperate fully with all public agencies and their accredited representatives authorized to participate in the donation program. Upon reasonable request, DOE organizations shall make available complete information on surplus property held for disposal.

§ 109-44.000-51 Responsibilities and authorities.

Heads of field offices shall appoint officers to make findings and reviews as required in FPMR 101-44.7 relating to donation of property to public bodies. Decisions relating to the actual donation of Government personal property are to be reserved to the Government and cannot be delegated to contractors.

Subpart 109-44.3—Donation of Foreign Excess Personal Property

§ 109-44.301 Holding agency responsibility.

After utilization screening and prior to disposal in the foreign area, property shall be considered available for return to the United States for donation as provided in FPMR 101-44.7 and § 109-43.5.

§ 109-44.305 Costs incurred incident to donation.

For DOE procedures on costs incurred incident to donation, see DOE Order 2200, Chapter III.

Subpart 109-44.47—Reports

§ 109-44.4701 Reports.

Instructions for submission of financial data for this report are contained in DOE Order 2200, Chapter XI.

PART 109-45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Sec.
109-45.000 Scope of part.
109-45.000-50 Policy.

Subpart 109-45.1—General

109-45.101-50 Applicability.
109-45.103 Sales responsibilities.
109-45.103-1 Responsibilities of the General Services Administration.
109-45.103-2 Responsibilities of holding agencies.
109-45.105 Exclusions and exemptions.
109-45.105-3 Exemptions.

Subpart 109-45.3—Sale of Personal Property

109-45.301-50 Sales by DOE contractors.
109-45.302-50 Sales to DOE and contractor employees.
109-45.303 Reporting property for sale.
109-45.303-1 Describing property.
109-45.304-2 Negotiated sales at fixed prices.
109-45.304-6 Reviewing authority.
109-45.304-7 Advertising.
109-45.304-50 Processing bids and award of contract.
109-45.304-51 Documentation.
109-45.307 Proceeds from sales.
109-45.309 Special classes of property.
Sec.
109-45.309-50 Unserviceable property (salvage and scrap).
109-45.310 Anti-trust laws.
109-45.316 Report on identical bids.

Subpart 109-45.5—Abandonment or Destruction of Surplus Property

109-45.501 Findings justifying abandonment and destruction.
109-45.501-1 General.
109-45.501-2 Reviewing authority.

Subpart 109-45.50—Excess and Surplus Radioactively Contaminated Personal Property

109-45.5001 Scope of subpart.
109-45.5002 Responsibilities.
109-45.5002-1 Development of criteria for utilization and disposal outside DOE.
109-45.5002-2 Approval of requests for utilization and disposal outside DOE.
109-45.5003 Procedures.
109-45.5003-1 Suspect personal property.
109-45.5003-2 Handled as uncontaminated equipment.
109-45.5003-3 Contaminated property.

Subpart 109-45.51—Disposal of Excess Personal Property in Foreign Areas

109-45.5100 Scope of subpart.
109-45.5101 Authority.
109-45.5102 General.
109-45.5103 Definitions.
109-45.5104 Responsibilities.
109-45.5104-1 Director of Procurement and Contracts Management.
109-45.5104-2 Heads of activities in foreign areas.
109-45.5105 Disposal.
109-45.5105-1 General.
109-45.5105-2 Methods of disposal.
109-45.5106 Reports.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SOURCE: 44 FR 1022, Jan. 3, 1979, unless otherwise noted.

§ 109-45.000 Scope of part.

This part implements and supplements FPMR 101-45, Sale, Abandonment, or Destruction of Personal Property, but does not apply to (a) sale or other disposal activities for deuterium, enriched lithium, atomic weapons, and byproduct, source and special nuclear materials, as defined in Section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014), (b) properties which are sold or otherwise disposed of pursuant to special statutes, or (c) disposal of personal property in foreign areas (see § 109-45.51).

§ 109-45.000-50 Policy.

It is the policy of DOE to provide for the disposal of surplus personal property in an economical and efficient manner, and when sales are involved, for the fair and equal treatment of all prospective buyers, and for the protection of the Government's interests.

Subpart 109-45.1—General

§ 109-45.101-50 Applicability.

The provisions of FPMR Part 101-45 and this part are applicable to contractors which are authorized to dispose of surplus personal property.

§ 109-45.103 Sales responsibilities

§ 109-45.103-1 Responsibilities of the General Services Administration.

GSA regional offices are responsible for the conduct of sales of surplus and replacement property in the custody of DOE direct operations, except that DOE will continue to sell replacement property where trade-in offers are also involved in the transaction.

§ 109-45.103-2 Responsibilities of holding agencies.

See § 109-45.105-3, Exemptions, and § 109-45.3 for policy and procedures governing the sale of personal property by DOE contractors.

§ 109-45.105 Exclusions and exemptions.

§ 109-45.105-3 Exemptions.

The General Services Administration, by letter dated May 28, 1965, authorizes DOE contractors to sell contractor inventory, including replacement property. This exemption is for sales of contractor inventory only. All surplus property in the custody of DOE direct operations (except replacement property where trade-in offers are involved) will be reported to GSA in accordance with FPMR 101-45.303.

Subpart 109-45.3—Sale of Personal Property

§ 109-45.301-50 Sales by DOE contractors.

Sales of contractor inventory will be made by DOE contractors when heads of field offices determine that it is in the best interests of the Government to do so.

§ 109-45.302-50 Sales to DOE and contractor employees.

(a) Employees of DOE and DOE contractors shall be afforded the same opportunity to purchase Government-owned property as is afforded the general public, provided the employees warrant in writing prior to award that they have not either directly or indirectly—

(1) Participated in the determination to dispose of the property;

(2) Participated in the preparation of the property for sale;

(3) Participated in determining the method of sale; or

(4) Acquired information not otherwise available to the general public regarding usage, condition, quality, or value of the property.

(b) Special clothing and other articles of personal equipment purchased for the exclusive use of and fitted to an individual employee, when not otherwise usable by, and in all respects excess to the needs of, the holding installation, may be sold to DOE or contractor employees at the best price obtainable in the event of termination of their employment or their permanent assignment to duties not requiring such clothing or equipment.

§ 109-45.303 Reporting property for sale.

(a) *Reportable property.* In those cases where GSA is to be responsible for the sales function, the GSA regional offices will normally initiate sales action from the list of items remaining as surplus on Standard Form 120 reports after utilization and donation screening. In order to assure no misunderstanding at GSA regional offices as to who is to perform the sales function, each Standard Form 120 report forwarded to GSA (whether for DOE or DOE contractor property) shall bear a capitalized notation in a prominent place reading either "TO BE SOLD BY GSA" or "NOT TO BE SOLD BY GSA" as appropriate.

§ 109-45.303-1 Describing property.

DOE organizations shall assure that property reported or offered for sale is described accurately. In addition to the requirements contained in FPMR 101-45.303-1, particular emphasis should be placed on the accuracy of item quantities to achieve uniformly fair and reasonable disposition of all surplus personal property, protecting the interests of both the Government and the purchaser.

§ 109-45.304-2 Negotiated sales and negotiated sales at fixed prices.

(a) Negotiated sales, including purchases or retentions at less than cost by the contractor, may be made when the contracting officer determines and documents that the use of this method of sale is essential to expeditious contract closeout, or is otherwise justified on the basis of circumstances enumerated below, provided that the Government's interests are adequately protected. Negotiated sales, including purchases or retentions at less than cost by the contractor, shall be at prices which are fair and reasonable and not less than the proceeds which could reasonably be expected to be obtained if the property was offered for competitive sale. Specific conditions justifying negotiated sales are when—

(1) No acceptable bids have been received as a result of competitive bidding under a suitably advertised sale;

(2) Property is of such small value that the proceeds to be derived would not warrant the expense of a formal competitive sale;

(3) The disposal will be to states, territories, possessions, political subdivisions thereof, or tax-supported agencies therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained;

(4) The specialized nature and limited use potential of the property would create negligible bidder interest;

(5) Removal of the property would result in a significant reduction in value, or the accrual of disproportionate expenses in handling; or

(6) It can be clearly established that such action is essential to the Government's interests.

See FPMR 101-45.304-6 and § 109-45.304-6 for reviewing authority requirements.

(b) Negotiated sales at fixed prices. When determined to be in the best interests of the Government, heads of field offices may authorize fixed-price sales of contractor inventory by DOE contractors provided (1) the reasonable recovery value of the property to be sold to any one purchaser at any one time does not exceed $100, (2) adequate procedures for publicizing such sales have been established, (3) the sales prices are not less than could reasonably be expected if competitive bid sales were employed and the prices have been approved by a reviewing authority designated by the heads of field offices, and (4) the warranty prescribed in § 109-45.302-50(a) is obtained when sales are made to employees.

§ 109-45.304-6 Reviewing authority.

The reviewing authority required under FPMR 101-45.304-6 may consist of one or more persons designated by the head of the field office who will be responsible for providing an adequate and independent review of proposed sales for the purpose of determining whether—

(a) The method of sale is in accordance with established policies and procedures; and

(b) Proceeds constitute a reasonable return for the property sold.

§ 109-45.304-7 Advertising.

(b) Procedures shall be established by all sales activities to assure that notification is provided to the Department of Commerce of proposed sales of surplus property with an acquisition cost of $250,000 or more as required by FPMR 101-45.304-7(b).

§ 109-45.304-50 Processing bids and award of contract.

The procedures established in FPR 1-2.4 shall be made applicable to execution, receipt, safeguarding, opening, abstracting, and evaluation of bids and awarding sales contracts, except that in evaluating bids and awarding contracts, disposal under conditions most advantageous to the Government based on high bids received shall be the determining factor. For mistakes in bids, see FPMR 101-45.8.

§ 109-45.304-51 Documentation.

Files pertaining to sales shall contain copies of all documents necessary to provide a complete record of the transaction and as a minimum shall include the following:

(a) A copy of request for proposals if written proposals are employed.

(b) A list of prospective bidders contacted.

(c) An abstract of proposals received, whether oral or written.

(d) Copies of written proposals or confirming proposals received, including Standard Forms 119 (see FPMR 101-45.313-9) which have been received from prospective bidders, together with other relevant information.

(e) A notation concerning basis for determination that proceeds constitute a reasonable return for property sold.

(f) Full and adequate justification for not advertising for competitive bids when the fair market value of property sold in this manner in any one case exceeds $1,000.

(g) A notation concerning any award made to other than the high bidder.

(h) The approval of reviewing authority when required.

(i) A copy of notice of award.

(j) All related correspondence.

(k) In the case of auction or spot bid sales, the following additional information should be included:

(1) A list of items or lots sold indicating book cost and sales price for each item or lot sold.

(2) A copy of advertising literature distributed to prospective bidders.

(3) A summary listing of advertising by means of newspapers, radio, television, public posting, etc.

(4) The names of prospective bidders who attended sale if list was made.

(5) A copy of any pertinent contract for auctioneering services and related documents or appropriate reference to files containing such documents.

(6) A record of deposits and payments made or appropriate reference to files containing such records.

§ 109-45.307 Proceeds from sales.

Notwithstanding the provisions of FPMR 101-45.307, DOE installations shall comply with the provisions of DOE Order 2200, Chapter IV.

§ 109-45.309 Special classes of property.

§ 109-45.309-50 Unserviceable property (salvage and scrap).

(a) A continuous cleanup program shall be maintained at all DOE installations to locate, efficiently handle, and promptly dispose of unserviceable property (salvage and scrap). Property inventories and construction, wrecking, dismantling and other projects which might produce scrap, should be regularly reviewed, particularly for metals and other items which offer potential as marketable materials and for economic returns to the Government. (See FPMR Part 101-42 and DOE-PMR Part 109-42 for recovery of precious metals and reporting requirements.)

(b) Scrap metals shall be segregated to the maximum economical extent consistent with good industrial practice.

(c) Scrap metal which is contaminated with radioactive material shall be segregated and appropriately marked at the source as to type and degree of contamination.

§ 109-45.310 Antitrust laws.

Selling organizations shall submit to the Office of the General Counsel, with a copy to the Director of Procurement and Contracts Management, the report on proposed sales of surplus personal property with an acquisition cost of $3,000,000 or more, or a patent, process, technique, or invention, regardless of cost. Information to be included is contained in FPMR 101-45.310.

§ 109-45.316 Report on identical bids.

Selling organizations shall forward the report on identical bids required by FPMR 101-45.316 to the Office of the General Counsel, with a copy to the Director of Procurement and Contracts Management.

Subpart 109-45.5—Abandonment or Destruction of Surplus Property

§ 109-45.501 Findings justifying abandonment and destruction.

§ 109-45.501-1 General.

(a) The finding required by FPMR 101-45.501-1(a) that property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale shall be in writing and shall be made by an official designated by the head of the field office concerned.

§ 109-45.501-2 Reviewing authority.

The head of the field office concerned or his designee will be the reviewing authority for approval to abandon or destroy property with an acquisition cost of more than $1,000.

Subpart 109-45.50—Excess and Surplus Radioactively Contaminated Personal Property

§ 109-45.5001 Scope of subpart.

This subpart provides policies and procedures for the utilization and disposal outside of DOE of excess and surplus personal property which has been radioactively contaminated.

§ 109-45.5002 Responsibilities.

§ 109-45.5002-1 Development of criteria for utilization and disposal outside DOE.

The Assistant Secretary's for Environment operational and environmental safety staff has responsibility for development of criteria for utilization and disposal of excess and surplus radioactively contaminated personal property outside of DOE.

§ 109-45.5002-2 Approval of requests for utilization and disposal outside DOE.

Requests for utilization and disposal outside DOE shall be forwarded to the Director of Procurement and Contracts Management for approval and coordination with the Assistant Secretary's for Environment operational and environmental safety staff for recommendations as to approval or disapproval.

§ 109-45.5003 Procedures.

§ 109-45.5003-1 Suspect personal property.

(a) Each excess item of personal property (including scrap), having a history of use in an area where exposure to radioactive materials may occur, shall be considered suspect and shall be monitored using appropriate instruments and techniques by qualified personnel of the DOE office or contractor generating the excess.

(b) Prior to utilization or disposal outside DOE, with due consideration to the economic factors involved, every effort shall be made to reduce the level of radioactive contamination of items of excess or surplus property to the lowest practicable level.

(c) If contamination is suspect and the property is of such size, construction, or location as to make the contamination inaccessible for the purpose of measurement, such property shall not be utilized or disposed of outside DOE through normal channels.

§ 109-45.5003-2 Handled as uncontaminated equipment.

If monitoring of suspect equipment indicates that the contamination does not exceed applicable standards, it may be utilized and disposed of in the same manner as uncontaminated equipment, provided the guidance in § 109-45.5003-1(b) has been considered. However, recipients shall be advised where levels of contamination require specific controls for shipment as provided in Department of Transportation Regulations for shipment of radioactive materials (49 CFR Parts 171-179, inclusive). In addition, when such equipment is circularized within DOE, reported to GSA, or otherwise disposed of, the kind and degree of contamination must be plainly indicated on all pertinent documents.

§ 109-45.5003-3 Contaminated property.

When the holding activity determines it is appropriate to dispose of contaminated personal property, such contaminated personal property shall be disposed of by DOE in accordance with appropriate Federal regulations governing radiation exposure to the public and contamination in the environment. In special cases where Federal regulations do not exist or apply, appropriate national consensus standards shall be used. Prior to utilization or disposal outside of DOE, approvals of the Director, Procurement and Contracts Management, and the Assistant Secretary's for Environment operational and environmental safety staff, are required. The requests for approval of utilization or disposal outside of DOE shall be forwarded to the Director of Procurement and Contracts Management for Headquarters coordination and approval.

Subpart 109-45.51—Disposal of Excess Personal Property in Foreign Areas

§ 109-45.5100 Scope of subpart.

This subpart prescribes policies and procedures governing the disposal of DOE-owned foreign excess and surplus personal property.

§ 109-45.101 Authority.

The policies and procedures contained in this subpart are issued pursuant to the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 USC 471). Title IV of that Act entitled "Foreign Excess Property" provides that, except where commitments exist under previous agreements, all excess property located in foreign areas shall be disposed of by the owning agency, and directs that the head of such an agency conform to the foreign policy of the United States in making such disposals.

§ 109-45.5102 General.

Disposal of Government-owned property in the custody of DOE or its contractors in foreign areas shall be made in an efficient and economical manner, and in conformance with the foreign policy of the United States.

§ 109-45.5103 Definitions.

As used in this subpart, the following definitions apply:

(a) "Foreign" means outside the United States, Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(b) "Foreign service post" means the local diplomatic or consular post in the area where the excess property is located.

§ 109-45.5104 Responsibilities.

§ 109-45.5104-1 Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management—

(a) Develops and interprets policies, principles, and general procedures for the disposal of excess property in foreign areas; and

(b) Prepares an annual report to GSA on the disposal of excess property in foreign areas. (See FPMR 101-43.4701, 101-44.4701, and 101-45.4701).

§ 109-45.5104-2 Heads of offices in foreign areas.

Heads of DOE foreign offices—

(a) Are authorized to handle foreign excess disposal matters in accordance with Title IV, "Foreign Excess Property" of the Federal Property and Administrative Services Act of 1949, as amended and this subpart;

(b) Shall refer to the Procurement and Contracts Management Directorate (PR-221), any requests for advice or approval of the State Department on proposed disposals of excess property in foreign areas for review, coordination and handling through appropriate channels; and

(c) Shall approve the exchange or lease of foreign excess property when in their opinion such action is clearly in the best interest of the Government as provided in § 109-45.5105-2(b).

§ 109-45.5105 Disposal.

§ 109-45.5105-1 General.

(a) Foreign excess property which is not required for transfer within DOE or to other U.S. Government agencies shall be considered surplus and may be disposed of by transfer, sale, exchange, or lease, for cash, credit, or other property and upon such other terms and conditions as may be deemed proper. Such property may also be donated, abandoned, or destroyed under the conditions specified in § 109-45.5105-2(c). Most foreign governments have indicated to the State Department that they wish to be consulted before U.S. Government prop-erty is disposed of in their countries (except in the case of transfers to other U.S. Government agencies). Matters concerning customs duties and taxes, or similar charges, may require prior agreement with the foreign government involved. The State Department shall be contacted in regard to these problems. Whenever advice or approval of the State Department is required by this subpart, it may be obtained either through the foreign service post in the foreign area involved or from the State Department in Washington, D.C. If the problem is to be presented to the State Department in Washington, D.C., it shall be referred through appropriate administrative channels to the Director of Procurement and Contracts Management, for review, coordination and handling.

(b) Foreign excess property which is not transferred for use may be transferred to other U.S. Government agencies for disposal. This procedure may often prove advantageous, particularly when only small amounts of property are involved or when personnel of the other agencies are generally engaged in disposal activities.

§ 109-45.5105-2 Methods of disposal.

(a) Sales of foreign excess shall be conducted in accordance with the following guidelines:

(1) Generally, all sales of surplus foreign excess property shall be conducted under the competitive bid process unless it is advantageous and more practicable to the Government not to do so. When competitive bids are not solicited, reasonable inquiry of prospective purchasers shall be made in order that sales may be made on terms most advantageous to the U.S. Government.

(2) In no event shall any property be sold in foreign areas without a condition which states that its importation into the United States is forbidden unless the U.S. Secretary of Agriculture (in the case of any agricultural commodity, food, or cotton or woolen goods), or the U.S. Secretary of Commerce (in the case of any other property), determines or has determined that the importation of such property would relieve domestic shortages or otherwise be beneficial to the economy of the United States.

(3) Sales documents shall provide that the purchaser must pay any import duties or taxes levied against property sold in the country involved and further provide that the amount of this duty or tax shall not be included as a part of the price paid the U.S. Government for the property. In the event the levy is placed upon the seller by law, the buyer will be required to pay all such duties or taxes and furnish the seller copies of his receipts prior to the release of the property to him. However, if the foreign government involved will not accept payment from the buyer, the seller will collect the duties or taxes and turn the amounts collected over to the foreign government. Accounting for the amounts collected shall be coordinated with the disbursing officer of the nearest United States foreign service post. The property shall not be released to the purchaser until the disposal officer is satisfied that there is no responsibility for payment by the United States (as contrasted to collection by the United States) of taxes, duties, excises, etc.

(4) Certain categories of property, including small arms and machine guns; artillery and projectiles; ammunition, bombs, torpedoes, rockets and guided missiles; fire control equipment and range finders; tanks and ordnance vehicles; chemical and biological agents, propellents and explosives; vessels of war and special naval equipment; aircraft and all components, parts and accessories for aircraft; military electronic equipment; aerial cameras, military photo-interpretation, stereoscopic plotting and photogrammetry equipment; and all material not enumerated which is classified from the standpoint of military security (United States Munitions List, 22 CFR

121.01), are subject to restrictions as to disposal. Advance approval must be obtained from the State Department for the sale of all such articles. Therefore, prior to the sale of any of the articles enumerated in the U.S. Munitions List, the foreign service post in the area shall be consulted.

(5) Prior to the sale of property which had a total acquisition cost of $250,000 or more, plans for such sale shall be reported to the Procurement and Contracts Management Directorate (PR-221) in ample time to allow considerations of possible foreign policy aspects and advice thereon from the State Department. (See § 109-45.5106(a).) All proposed sales, regardless of the total acquisition cost of the property involved, which the head of the DOE foreign office believes might have a significant effect on the economic or political situation in a particular area, shall be discussed with the foreign service post.

(b) While there is authority for exchange or lease of foreign surplus property, such authority shall be exercised only when such action is clearly in the best interests of the U.S. Government. Disposals by exchange are subject to the same requirements as disposals by sale under § 109-45.5105-2(a).

(c) Foreign excess or surplus property (including waste, salvage, and scrap) may be donated, abandoned, or destroyed provided (1) the property has no commercial value, or the estimated cost of its care and handling would exceed the estimated proceeds from its sale and (2) a written finding to that effect is made and approved by the head of the DOE foreign office. No property shall be abandoned or destroyed if donation is feasible. Donations under these conditions may be made to any agency of the U.S. Government, or to educational public health or charitable nonprofit organizations of foreign governments. Foreign excess property may also be abandoned or destoyed when such action is required by military necessity, safety, or considerations of health or security. A written statement explaining the basis for disposal by this means and approval by the head of the DOE foreign office is required. Property shall not be abandoned or destroyed in a manner which is detrimental or dangerous to public health and safety, or which will cause infringement on the rights of other persons.

§ 109-45.5106 Reports.

(a) Proposed sales of foreign excess property having an acquisition cost of $250,000 or more reported to the Director of Procurement and Contracts Management should present all pertinent data, including the following:

(1) The description of property to be sold, including—

(i) Identification of property (description should be in terms understandable to persons not expert in technical nomenclature); property covered by the Munitions List and regulations pertaining thereto (as published in 22 CFR 121.01) should be clearly indicated;

(ii) Quantity;

(iii) Condition; and

(iv) Acquisition cost.

(2) The proposed method of sale (i.e., bid, negotiated sale, etc.).

(3) Any currency to be received and payment provisions (i.e., U.S. dollars, foreign currency, or credit, including terms of proposed agreement).

(4) Any restrictions on use of property to be sold (such as retransfer of property, disposal as scrap, demilitarization, etc.).

(5) Any special terms.

(6) The categories of prospective purchasers (e.g., host country, other foreign countries, special qualifications, etc.).

(7) How taxes, excises, duties, etc. will be handled.

(b) Instructions for reporting foreign excess utilization and disposal transactions are contained in DOE Order 2200, Chapter III.

PART 109-46—UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

Sec.
109-46.000 Scope of part.
109-46.000-50 Applicability.

Subpart 109-46.4—Disposal

Sec.
109-46.407 Reports.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SOURCE: 44 FR 1026, Jan. 3, 1979, unless otherwise noted.

§ 109-46.000 Scope of part.

This part implements and supplements FPMR Part 101-46.

§ 109-46.000-50 Applicability.

This part is not applicable to DOE contractors.

Subpart 109-46.4—Disposal

§ 109-46.407 Reports.

Feeder reports of exchange/sale transactions required by FPMR 101-46.407 shall be submitted through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221) within 60 days after the close of the fiscal year. Negative reports are required.

PART 109-48—UTILIZATION, DONATION, OR DISPOSAL OF ABANDONED AND FORFEITED PERSONAL PROPERTY

Sec.
109-48.000 Scope of part.
109-48.001-50 Applicability.

Subpart 109-48.1—Utilization of Abandoned and Forfeited Personal Property

109-48.101-6 Transfer to other Federal agencies.
109-48.102-4 Proceeds.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SOURCE: 44 FR 1026, Jan. 3, 1979, unless otherwise noted.

§ 109-48.000 Scope of part.

This part implements and supplements FPMR Part 101-48, Utilization, Donation, or Disposal of Abandoned and Forfeited Personal Property.

§ 109-48.001-50 Applicability.

The provisions of FPMR 101-48 and this part are applicable to contractor operations where the abandoned or forfeited personal property is found on premises owned or leased by the Government.

Subpart 109-48.1—Utilization of Abandoned and Forfeited Personal Property

§ 109-48.101-6 Transfer to other Federal agencies.

(d) Transfer orders covering requests for transfers of forfeited or voluntarily abandoned distilled spirits, wine and malt beverages for medicinal, scientific or mechanical purposes shall be forwarded through normal administrative channels for signature by the Procurement and Contracts Management Directorate (PR-221) and for subsequent forwarding to GSA for release.

§ 109-48.102-4 Proceeds.

After retention of any monies received from disposal of abandoned or forfeited property for the three-year period specified in FPMR 101-48.102-4 with no claim being filed, such monies shall be deposited as provided in DOE Order 2200, Chapter IV.

PART 109-50—PROGRAMMATIC DISPOSAL OF DOE PROPERTY

Sec.
109-50.000 Scope of part.
109-50.001 Applicability.

Subpart 109-50.1—General

109-50.101 Authority.

Subpart 109-50.3—Used Energy-Related Laboratory Equipment Grant Program

109-50.300 Scope of subpart.
109-50.301 Applicability.
109-50.302 General.
109-50.303 Authority.
109-50.304 Definitions.
109-50.305 Responsibilities and authorities.
109-50.305-1 Director of Procurement and Contracts Management.
109-50.305-2 Director, Office of Education, Business and Labor Affairs, Assistant Secretary for Intergovernmental and Institutional Relations.

Sec.
109-50.305-3 Heads of field offices.
109-50.305-4 Grants officers.
109-50.305-5 Excess used energy-related laboratory equipment holdings activities.
109-50.305-6 Screening locations.
109-50.306 Types of equipment which may be granted.
109-50.307 Types of equipment which may not be granted.
109-50.308 Procedure.
109-50.309 Reports.
109-50.310 Screening locations.

Subpart 109-50.4—Programmatic Disposal to Contractor of DOE Property in a Mixed Facility

109-50.400 Scope of subpart.
109-50.401 Definitions.
109-50.402 Responsibilities and authorities.
109-50.402-1 Director of Procurement and Contracts Management.
109-50.402-2 Director of Administration.
109-50.402-3 Heads of Headquarters Program Organizations.
109-50.402-4 Heads of field offices and contracting officers.
109-50.403 Programmatic disposal of DOE property in mixed facilities.
109-50.403-1 Submission of proposals.
109-50.403-2 Need to establish DOE program benefit.
109-50.404 Notification.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SOURCE: 44 FR 1026, Jan. 3, 1979, unless otherwise noted.

§ 109-50.000 Scope of part.

This part provides guidance on the authorities, policies, and procedures for the disposal of DOE property for programmatic purposes.

§ 109-50.001 Applicability.

The provisions of this Part 109-50 apply to direct DOE activities, but do not apply to contractors unless specifically provided in the appropriate subpart.

Subpart 109-50.1—General

§ 109-50.101 Authority.

Programmatic disposals of DOE property generally are made under the authority and subject to the provisions of the Atomic Energy Act of 1954, as amended (42 USC 2011), the Energy Reorganization Act of 1974 (42 USC 5801), the Department of Energy Organization Act (42 USC 7101), and other special laws which provide authority for DOE program activities.

Subpart 109-50.3—Used Energy-Related Laboratory Equipment Grant Program

§ 109-50.300 Scope of subpart.

This subpart provides guidance on the granting of used, energy-related laboratory equipment to universities and colleges and other nonprofit educational institutions of higher learning in the United States for use in energy-oriented educational programs.

§ 109-50.301 Applicability.

This subpart is applicable to direct operations and to contractors.

§ 109-50.302 General.

DOE, to encourage research in the field of energy, awards grants of used energy-related laboratory equipment to eligible institutions for use in energy-oriented educational programs. Under the Used Energy-Related Laboratory Equipment Grant Program, grants of used energy-related equipment excess to the requirements of DOE offices and contractors may be made to eligible institutions prior to reporting the equipment to GSA for utilization.

§ 109-50.303 Authority.

The used Energy-Related Laboratory Equipment Grant Program is conducted under the authority of Article 31 of the Atomic Energy Act of 1954, as amended, section 103, paragraph 10, of the Energy Reorganization Act of 1974, and Title III of the Department of Energy Organization Act.

§ 109-50.304 Definitions.

As used in this subpart the following definitions apply:

(a) "Book value" means acquisition cost less depreciation.

(b) "Eligible institution" means any nonprofit educational institution of higher learning, such as universities, colleges, junior colleges, hospitals, and technical institutes or museums located in the United States and interested in establishing or upgrading energy-oriented educational programs.

(c) "Energy-oriented education program" means one that deals partially or entirely in energy or energy-related topics.

(d) "DOE Assistance Regulations (DOE-AR)" is the Department of Energy regulation which establishes a uniform administrative system for application, award, and administration of assistance awards, including grants and cooperative agreements.

(e) "Grants officer" is an employee or officer of DOE who has been delegated the authority to take final action on grants by signing grant awards and modifications thereto.

§ 109-50.305 Responsibilities and authorities.

§ 109-50.305-1 Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management—

(a) Establishes policies and procedures for the award and administration of grants; and

(b) Delegates grants officer authority.

§ 109-50.305-2 Director, Office of Education, Business and Labor Affairs, Assistant Secretary for Intergovernmental and Institutional Relations.

The Director, Office of Education, Business and Labor Affairs, Assistant Secretary for Intergovernmental and Institutional Relations—

(a) Has program responsibility for the Used Energy-Related Laboratory Equipment Grants Program;

(b) Issues general instructions and information on the program to institutions;

(c) Reviews and, where appropriate, approves requests from institutions for used equipment where the book value of an item of equipment exceeds $100,000 or where the cumulative book value of used equipment grants to any one institution exceeds $100,000; and

(d) Issues annual summary reports of equipment granted under this program to field offices and Headquarters organizations. Advises when grants to individual institutions approach the $100,000 book value cumulative limit.

§ 109-50.305-3 Heads of field offices.

Heads of field offices shall establish procedures for review and evaluation of equipment grant proposals in accordance with this subpart.

§ 109-50.305-4 Grants officers.

Grants officers—

(a) Award energy-related laboratory equipment grants under this program in accordance with the DOE Assistance Regulations (DOE-AR) and program instructions issued by the Director, Office of Education, Business and Labor Affairs, Assistant Secretary for Intergovernmental and Institutional Relations, and this subpart;

(b) Forward a copy of each approved and accepted grant to the Office of Education, Business and Labor Affairs; and

(c) Forward to Office of Education, Business and Labor Affairs, for approval prior to award of grant, requests from institutions for used equipment where the book value of the equipment exceeds $100,000 or where the cumulative book value of grants to an institution exceeds $100,000.

§ 109-50.305-5 Excess used energy-related laboratory equipment holding activities.

Each DOE and Contractor organization holding excess used energy-related laboratory equipment shall forward copies of excess reports (SF 120) to screening locations cited in § 109-50.310.

§ 109-50.305-6 Screening locations.

Activities designated in § 109-50.310 shall retain current files of reports of excess used energy-related laboratory equipment for review by eligible institutions.

§ 109-50.306 Types of equipment which may be granted.

Examples of types of equipment which may be granted under the Used Energy-Related Laboratory Equipment Grant Program are listed below.

These examples are merely illustrative and not inclusive.

—radiation detectors, monitors, scalers, and counters
—nuclear reactors and accelerators
—neutron howitzers and generators
—critical and subcritical assemblies
—bubble and cloud chambers
—dosimeters, survey meters, radiometers, and spectroscopes
—radiation shields and reactor associated components
—mass spectrometers, infrared spectrometers, and ultraviolet spectrometers
—gas and liquid chromatographs
—ammeters, voltmeters, electrometers
—linear and pulse-height analyzers
—power supplies
—catalyst test units
—distillation columns
—temperature and pressure recorders
—ion control gauges
—gas tracers and analyzers
—solar collectors and heliometers

§ 109-50.307 Types of equipment which may not be granted.

Types of equipment which will not be granted include—

(a) Any equipment determined to be required by DOE direct operations or DOE contractors;

(b) General supplies, such as Bunsen burners, hoods and work benches; furniture; office equipment, such as typewriters, adding machines, and duplicating machines; slide rules, and drafting and office supplies; refrigerators; tools; presses, lathes, furnaces, hydraulic and mechanical jacks, cranes and hoists; and computing equipment; or

(c) Any equipment which has been obtained as excess from another Federal agency.

§ 109-50.308 Procedure.

(a) Copies of excess reports (SF 120) of used energy-related laboratory equipment will be forwarded by each holding activity to the sites listed in § 109-50.310 for use by eligible institutions in reviewing and earmarking specific equipment. These reports will be separately prepared and identified with the caption "Used Energy-Related Laboratory Equipment."

(b) The following periods have been established during which time equipment will remain available to this program prior to reporting it to the General Services Administration for utilization by other Federal agencies:

(1) Sixty days from the date the report is issued to permit suitable time for eligible institutions to review and earmark the desired equipment.

(2) An additional sixty days after the equipment is earmarked to permit the eligible institutions to prepare and submit an equipment proposal request and to provide time for field organizations to review and evaluate the proposal and take appropriate action.

(c) Upon approval of the proposal, the issuance of the grant instrument and acceptance by the institution are deemed to constitute transfer of title.

(d) A Standard Form 120, accompanied by a copy of the completed grant, shall be used to drop accountability of the granted equipment from the financial records.

(e) The cost of care and handling of property incident to the grant shall be charged to the receiving institution. Such costs may consist of packing, crating, shipping and insurance, and are limited to actual costs. In addition, where appropriate, the cost of any repair and/or modification to any equipment shall be borne by the receipient institution.

§ 109-50.309 Reports.

(a) In addition to the copy of the awarded grant required to be forwarded in accordance with § 109-50.305-4(b), each awarded grant shall be reported in the Integrated Procurement Management Information System.

(b) Heads of field offices shall include grants made under this program in the annual report of property transferred to non-Federal activities, as required by FPMR 101-43.4701(c).

§ 109-50.310 Screening locations.

The following locations shall retain current files of SF-120's, reports of excess used energy-related laboratory equipment, for review by eligible institutions. DOE activities shall forward copies of SF 120s covering used energy-related laboratory equipment to these locations.

California

Property Management Office, Atomics International Division, Rockwell International Corporation, 8900 DeSoto Avenue, Canoga Park, California 91305

Property Manager, Lawrence Livermore Laboratory, University of California, Livermore, California 94720

Business Services, L-53, Lawrence Livermore Laboratory, University of California, Livermore, California 94550

Colorado

Rocky Flats Area Office, Department of Energy, P.O. Box 928, Golden, Colorado 80401

Idaho

Property Management Branch, EG & G, 539 Second Street, Idaho Falls, Idaho 83401

Property Management & Administrative Services Branch, Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho 83401

Illinois

Plant Operations, Plant Management, Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Illinois 60439

Missouri

Kansas City Area Office, Department of Energy, P.O. Box 202, Kansas City, Missouri 66141

Nevada

Property Management, Nevada Operations Office, Department of Energy, P.O. Box 14100, Las Vegas, Nevada 89114

New Mexico

Office of University Relations, Sandia Laboratories, P.O. Box 5800, Albuquerque, New Mexico 87115.

New York

Supply and Materials Office, Brookhaven National Laboratory, Upton, Long Island, New York 11973

Ohio

Property Management, Mound Laboratory, Monsanto Research Corporation, P.O. Box 32, Miamisburg, Ohio 45342

South Carolina

University Relations Office, Savannah River Laboratory, E. I. DuPont de Nemours & Co., Aiken, South Carolina 29801

Iowa

Materials Handling and Property Office, Room 152, Research Building, Ames Laboratory, Iowa State University, Ames, Iowa 50010

Tennessee

Materials and Services, Oak Ridge National Laboratory, P.O. Box X, Oak Ridge, Tennessee 37830

Washington

Excess Utilization, Rockwell Hanford, Building 1167-A, P.O. Box 250, Richland, Washington 99352

Subpart 109-50.4—Programmatic Disposal to Contractor of DOE Property in a Mixed Facility

§ 109-50.400 Scope of subpart.

This subpart contains guidance to be followed when it is proposed to sell or otherwise transfer DOE personal or real property located in a mixed facility to the Contractor who is the operator of that facility.

§ 109-50.401 Definitions.

As used in this subpart, the following definitions apply:

(a) "DOE property" is the DOE-owned personal or real property in a mixed facility.

(b) "Contractor" is the operator of the mixed facility.

(c) "Mixed facility" is a partly DOE-owned and partly contractor-owned facility. For purposes of this subpart, however, this definition does not apply to such a facility operated by an educational or other nonprofit institution under a basic research contract with DOE.

§ 109-50.402 Responsibilities and authorities.

§ 109-50.402-1 Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management is authorized to approve proposals for the programmatic disposal of DOE personal property in a mixed facility to the contractor operating that facility.

§ 109-50.402-2 Director of Administration.

The Director of Administration is authorized to approve proposals for the programmatic disposal of DOE real property in a mixed facility to the contractor operating that facility.

§ 109-50.402-3 Heads of Headquarters Program Organizations.

Heads of Headquarters Program Organizations shall review and, where appropriate, forward to the authorized officers in § 109-50.402-1 and 402-2 for approval, proposals for the programmatic disposal of DOE property in a mixed facility to the contractor operating that facility.

§ 109-50.402-4 Heads of field offices and contracting officers.

Heads of field offices and contracting officers shall submit proposals involving programmatic disposals of DOE property in mixed facilities through appropriate administrative channels to the cognizant Headquarters program organization for review and forwarding for approval.

§ 109-50.403 Programmatic Disposal of DOE Property in mixed facilities.

§ 109-50.403-1 Submission of proposals.

Proposals involving programmatic disposals of DOE property in mixed facilities to contractors operating the facility shall be forwarded through the appropriate program organization to the authorized officers in § 109-50.402-1 and 402-2 for review and processing for approval. Each such request for review and approval shall include all information necessary for a proper evaluation of the proposal. The proposal shall include, as a minimum—

(a) The purpose of the mixed facility;

(b) The character, condition and present use of the DOE property involved, as well as its acquisition cost, accumulated depreciation, and net book value;

(c) The programmatic benefits which would accrue to DOE from the disposal to the contractor (including the considerations which become important if the disposal is not made);

(d) The appraised value of the DOE property (preferably by independent appraisers); and

(e) The proposed terms and conditions of disposal (covering for example, (1) price, (2) priority to be given work for DOE requiring the use of the transferred property, and including the basis for any proposed charge to DOE for amortizing the cost of plant and equipment items, (3) recapture of the property if DOE foresees a possible future urgent need, and (4) delivery of the property, whether "as is-where is," etc.).

§ 109-50.403-2 Need to establish DOE program benefit.

When approval for a proposed programmatic disposal of DOE property in a mixed facility is being sought, it must be established that the disposal will benefit a DOE program. For example, approval might be contingent on a showing that—

(a) The entry of the contractor as a private concern into the energy program is important and significant from a programmatic standpoint; and

(b) The sale of property to the contractor will remove obstacles which otherwise discourage his entry into the field.

§ 109-50.404 Notification.

The Under Secretary will be advised prior to any disposal which is considered sensitive.

SUBCHAPTER I—[RESERVED]

SUBCHAPTER J—INDUSTRIAL PLANT EQUIPMENT

PART 109-51—LOANS OF INDUSTRIAL PLANT EQUIPMENT FROM THE DEFENSE INDUSTRIAL PLANT EQUIPMENT CENTER (DIPEC)

Sec.
109-51.000 Scope of part.
109-51.000-50 Policy.
109-51.001 Memorandum of Agreement.
109-51.002 General provisions.
109-51.003 DIPEC Handbook.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SOURCE: 44 FR 1029, Jan. 3, 1979, unless otherwise noted.

§ 109-51.000 Scope of part.

This part prescribes the policy and conditions for loans of industrial plant equipment (IPE) from the Department of Defense General Reserve under the management of the Defense Industrial Plant Equipment Center (DIPEC) and makes reference to the DOE DIPEC Handbook which prescribes procedures for arranging loans of IPE from DIPEC.

§ 109-51.000-50 Policy.

Since loan of DIPEC equipment is at no cost, except for packing, crating, handling, and transportation charges, DOE field offices and contractors are encouraged to use DIPEC as a source of industrial plant equipment in lieu of purchasing such equipment.

§ 109-51.001 Memorandum of Agreement.

An agreement between DOE and the Defense Logistics Agency establishes the policies, procedures and conditions by which DOE may obtain loans of IPE from DIPEC. (Exhibit A of the DIPEC Handbook).

§ 109-51.002 General provisions.

(a) DOE field offices and contractors may requisition IPE on a loan basis for periods up to five years. The IPE loan period may be extended on mutual agreement between DIPEC and the DOE field office involved.

(b) DOE and DOE contract personnel may visit DIPEC headquarters or storage centers to acquire information or to inspect requisitioned or required IPE. Visit arrangements are to be coordinated through DIPEC.

(c) DOE has a 30-day period to accept or reject IPE placed on hold by DIPEC.

(d) DOE field offices or contractors will pay costs of transportation, dismantling, crating and handling of IPE from and to DOD.

(e) On completion of the loan period, the DOE field office or contractor shall return the DIPEC-IPE in the same condition as received except for fair wear and tear.

(f) DOE is required under terms of the agreement to decontaminate IPE prior to return or replace the equipment with an equivalent item.

§ 109-51.003 DIPEC Handbook.

The DIPEC Handbook is available through field organizations or by request to the Procurement and Contracts Management Directorate (PR-221). The Handbook cites the procedures for arranging loan of IPE, illustrates the forms used and provides a bibliography of DIPEC publications which list the available IPE by type of equipment and by DIPEC control numbers.

SUBCHAPTER K—GOVERNMENT PROPERTY IN THE POSSESSION OF OFFSITE CONTRACTORS

PART 109-60—MANAGEMENT OF GOVERNMENT PROPERTY IN THE POSSESSION OF OFF-SITE CONTRACTORS

Sec.
109-60.000 Scope and applicability of part.
109-60.001 Definitions.

Subpart 109-60.1—Contractor's Responsibility

109-60.100 General.
109-60.101 Assumption of responsibility.
109-60.102 Contractor's liability.
109-60.103 Segregation of Government property.
109-60.104 Physical protection of property.
109-60.105 Control of sensitive items of property.
109-60.106 Disposition.
109-60.107 Relief from responsibility.

Subpart 109-60.2—Records and Financial Reports

109-60.200 General.
109-60.201 Unit Cost.
109-60.202 Records of plant and capital equipment.
109-60.203 Records of material maintained in stores.
109-60.204 Records of material issued upon receipt.
109-60.205 Financial property control reports.
109-60.206 DOE plant and equipment asset types.

Subpart 109-60.3—Identification

109-60.300 General.

Subpart 109-60.4—Physical Inventories

109-60.400 General.
109-60.401 Frequency.
109-60.402 Reporting results of inventories.
109-60.403 Records of inventories.
109-60.404 Inventories upon termination or completion.

Subpart 109-60.5—Care and Maintenance

109-60.500 General.
109-60.501 Contractor's maintenance program.

Subpart 109-60.6—Utilization, Disposal, and Retirement

Sec.
109-60.600 General.
109-60.601 Maximum use of property.
109-60.602 Disposal.
109-60.603 Retirement of property.

Subpart 109-60.7—Motor Vehicle and Aircraft Management

109-60.700 Scope of subpart.
109-60.701 Definition.
109-60.702 Policy.
109-60.703 Classification of motor vehicles.
109-60.704 Acquisition of motor vehicles.
109-60.705 Identification of motor vehicles.
109-60.706 Use of the GSA Interagency Motor Pool System.
109-60.707 Official use of motor vehicles.
109-60.708 Maintenance.
109-60.709 Disposition of motor vehicles.
109-60.710 Required motor vehicle reports.
109-60.711 Aircraft.

Subparts 109-60.8—109-60.46 [Reserved]

Subpart 109-60.47—Reports

109-60.4700 Required reports.

AUTHORITY: Sec. 644 of the Department of Energy Organization Act (Pub. L. 95-51, 42 U.S.C. 7254).

SOURCE: 45 FR 944, Jan. 3, 1980, unless otherwise noted.

§ 109-60.000 Scope and applicability of part.

This part sets forth the minimum requirements to be observed by off-site contractors in establishing and maintaining control over Government property provided pursuant to a contract with DOE. This part does not apply to transportation contracts, grants, cooperative agreements, contracts with state and local governments, and to operating and on-site service contractors. To the extent of any inconsistency between this part and the terms of the contract under which the Government property is provided, the terms of the contract shall govern.

§ 109-60.001 Definitions.

As used in this part the following definitions apply:

(a) "Accessory item" means an item that facilitates or enhances the operation of capitalized equipment but which is not essential for its operation, such as remote control devices.

(b) "Auxiliary item" means an item without which the basic unit of equipment cannot operate, such as motors for pumps and machine tools.

(c) "Capital equipment" means personal property items having a unit acquisition cost of generally $500.00 or more and an anticipated service life in excess of one (1) year, regardless of type of funding, are not properly chargeable to buildings or utilities, and having the potential for maintaining their integrity as capital items, i.e., not expendable due to use.

(d) "Government personal property" means all property provided at Government expense for performance of the contract, regardless of the method by which it is provided, including rented or leased equipment, except real property, records of the Federal Government, nuclear and special source materials, and atomic weapons and by-product materials.

(1) "Government-furnished property" means property in the possession of or directly acquired by the Government and subsequently made available to the contractor for use in performance of the contract.

(2) "Contractor-acquired Government property" means property acquired or otherwise provided by the contractor for performance of a contract and to which the Government has title or the right to take title under the contract terms.

(e) "Materials" means property which may be incorporated into or attached to an item to be delivered under a contract or which may be consumed or expended in normal use in the performance of a contract. It includes, but is not limited to, raw and processed material, parts, components, assemblies, or supplies.

(f) "Property administrator" means an authorized representative of the contracting officer assigned to administer the contract requirements and obligations relative to Government property. If an authorized representative has not been designated as the property administrator, the contracting officer is the property administrator.

(g) "Plant and equipment" means land, land rights, depletable resources, improvements to land, buildings and structures, utilities, and capital equipment having an anticipated service life of 1 year or more, the individual units of which satisfy the monetary and other criteria for capital charges and which therefore justify the maintenance of continuing plant and equipment records.

(h) "Salvage" means that property which has some value in excess of its basic material content but which is in such condition that it has no reasonable prospect of use for any purpose as a unit and its repair or rehabilitation for use is clearly impracticable.

(i) "Scrap" means property that has no value except for the recoverable value of it basic material content.

(j) "Sensitive items" means those items of property which are susceptible to being appropriated for personal use or which can be readily converted to cash. Examples are firearms, photographic equipment, binoculars, tape recorders, calculators, and power tools.

(k) "Special test equipment" means either single or multipurpose integrated test units engineered, designed, fabricated, or modified to accomplish special purpose testing in the performance of a contract. It consists of items or assemblies of equipment that are interconnected and interdependent so as to become a new functional entity for special testing purposes. It does not include material, special tooling, facilities (except foundations and similar improvements necessary for the installation of special test equipment), and equipment items used for general testing purposes.

(l) "Special tooling" means jigs, dies, fixtures, molds, patterns, taps, gauges, other equipment and manufacturing aids, all components of these items, and replacement of these items, which are of such a specialized nature that without substantial modification or alteration their use is limited to the development or production of particular supplies or parts thereof or the performance of particular services. It does not include material, special test equipment, facilities (except foundations and similar improvements necessary for the installation of special tooling), general or special machine tools, or similar capital items.

Subpart 109-60.1—Contractor's Responsibility

§ 109-60.100 General.

(a) The contractor is directly responsible and accountable for all Government property in his possession or control in accordance with the provisions of the contract, including property provided under such contract which may be in the possession or control of a subcontractor. The contractor shall establish and maintain a system, in accordance with the provisions of this part, to control, protect, preserve and maintain all Government property. If the contractor is expected to acquire and be accountable for, or does acquire Government personal property with an acquisition value of $500,000 or more, the contractor's property management system shall be in writing. Contractors holding Government personal property with an acquisition value of less than $500,000 may, at the discretion of the contracting officer, be required to have their property management system in writing. The requirement for written systems may be waived in writing by the contracting officer where the contracting officer determines that maintenance of a written system is unnecessary. The system shall be reviewed and, if satisfactory, approved in writing by the contracting officer.

(b) The contractor shall maintain and make available such records as are required by subpart 109-60.2 and shall account for all Government property until relieved of that responsibility. Liability for loss, damage, or improper use of property in a given instance will depend upon all the circumstances surrounding the particular case and will be determined in accordance with the provisions of the contract. The contractor shall furnish all data necessary to substantiate any request for discharge from responsibility.

(c) The contractor shall require subcontractors provided Government property under the prime contract to comply with the provisions of this part. Procedures for assuring subcontractor compliance shall be included in the contractor's property control system.

(d) If any portion of the contractor's property control system is found to be inadequate upon review by the property administrator, necessary corrective action will be accomplished by the contractor prior to approval of the system. When agreement as to adequacy of control or corrective action cannot be reached between the contractor and the property administrator, the matter will be referred to the contracting officer.

(e) The property records and the premises where any Government property is located shall be accessible to the property administrator or other authorized representative during contract performance, at contract completion or termination, or at all reasonable times. The contractor's property control system is subject to audit by the Government as often as circumstances warrant during the contract's performance, at its completion or termination, or at any time thereafter while the contractor is required to retain the contract records. All these records, including related correspondence, shall be made available to the auditors.

§ 109-60.101 Assumption of responsibility.

(a) The contractor becomes responsible for Government-furnished property upon its delivery into the contractor's custody or control. For contractor-acquired Government property, the contractor assumes responsibility in accordance with the property provisions of the contract.

(b) All Government-furnished property shall be inspected and checked promptly at the time of receipt. Any visible or other external evidence of damage or error in quantity should be noted on the waybill with the signature of the carrier's agent. As soon as possible, the contractor shall send the contracting officer a full report of the damage or quantity error, including extent, apparent cause, and the estimated cost of repairs. The contracting officer will advise the contractor of the action to be taken.

(c) It is the contractor's responsibility to inspect, at the time of receipt, all property not furnished by the Government that is acquired in the performance of the contract, and to take any necessary action with the vendor and/or carrier if there should be any damage or error in quantity.

(d) Procedures shall be established to protect any warranty rights which accrue to the Government with the acquisition of Government property.

§ 109-60.102 Contractor's liability.

(a) Subject to the terms of the contract, the contractor may be liable for shortage, loss, damage, or destruction of Government property or when there is evidence of improper or unreasonable use or consumption of Government property.

(b) The contractor shall report promptly to the property administrator any shortage, loss, damage, or destruction of Government property in its possession or control, or in the possession or control of any subcontractor, together with all the facts and circumstances of the case.

(c) Any loss that may be due to theft shall be reported by the contractor immediately to the local police and/or Federal Bureau of Investigation and the property administrator.

§ 109-60.103 Segregation of Government property.

Ordinarily, provisions shall be made by the contractor to keep Government property segregated from contractor-owned property. Commingling of Government-and contractor-owned property may be allowed only when the segregation of the property would materially hinder the progress of the work, (e.g., segregation is not feasible for reasons such as quantities, lack of space, or costs caused by additional handling), and where control procedures are adequate, i.e., the Government property is identified as being Government property. Commingling must be approved in advance by the property administrator. In cases of research and development contracts with educational institutions, commingling is authorized without the requirement for advance approval unless physical segregation is otherwise required by the contracting officer.

§ 109-60.104 Physical protection of property.

(a) Controls such as property pass systems, memorandum records, marking of tools, regular or intermittent gate checks and perimeter fencing shall be implemented, recognizing the value of the property, to prevent loss, theft, or unauthorized movement of Government property from the premises on which such property is located.

(b) Classified Government property will be handled in accordance with instructions of the contracting officer.

§ 109-60.105 Control of sensitive items of property.

(a) The contractor shall assure that effective procedures and practices are established for the administrative and physical control of sensitive property items before and after issuance. Each contractor shall prepare a list of the types of property considered to be sensitive. This list, together with control procedures, shall be provided to the property administrator for review and approval.

(b) At a minimum, controls on sensitive property shall include property records, memorandum receipts, bin or tool check systems or combinations thereof. Procedures shall provide for physical inventories at least once each year, and methods for adjustment of inventory levels due to losses, thefts and damage. More frequent inventories of sensitive property may be necessary where the value of the property, degree of security achieved, or loss experience indicates greater controls are required in order to protect the Government's interest. Such procedures and practices shall be subject to review and approval by the property administrator.

§ 109-60.106 Disposition.

(a) The contractor is responsible for disposing of Government property as provided for in the contract or as directed by the contracting officer. The contractor shall promptly advise the property administrator of any Government property that becomes excess to requirements for contract performance and to take such action for its disposition as directed.

§ 109-60.107 Relief from responsibility.

Subject to instructions of the contracting officer and the terms of the contract, the contractor may be relieved of responsibility for Government property when the property is—

(a) Consumed or expended in contract performance—to the extent the contracting officer has determined that its consumption or expenditure was for proper purposes and in reasonable quantity for performance of the contract;

(b) Removed from contractor's possession—when removed as directed by the property administrator or contracting officer;

(c) Lost, damaged or destroyed (including property consumed or expended in excess of reasonable requirements, and non-serverable Government-owned property which has been connected to contractor-owned property for the performance of the contract and cannot be removed without destroying its serviceability)—when the contracting officer has determined the contractor's liability, if any; the Government has been reimbursed to the extent required by the contracting officer's determination; and, proper disposition has been made of any property rendered unserviceable by damage; or

(d) Retained by the contractor, with approval of the contracting officer, and for which the Government has received adequate consideration.

Subpart 109-60.2—Records and Financial Reports

§ 109-60.200 General.

(a) The contractor shall establish and maintain adequate property control records, either manual or mechanized and consistent with the requirements of this subpart, for all Government property provided under a contract, including property provided under such contract as may be in the possession or control of a subcontractor. Unless otherwise directed by the contracting officer, records of Government property established and maintained by the contractor under the terms of the contract shall be designated and utilized as the official contract records. Duplicate records shall not be furnished to nor be maintained by Government personnel.

(b) If a contractor has multiple contracts with DOE, separate property records for each contract should be maintained. However, if approved by the contracting officer, a consolidated property record may be maintained if it provides the pertinent information set forth in this subpart and the property is identified to the applicable contract.

(c) Property records of the type established for components acquired separately shall be used for serviceable components removed from items of Government property as a result of modification.

(d) The contractor's property control system shall contain a system or technique to locate any item of Government property with reasonable promptness.

§ 109-60.201 Unit cost.

(a) The unit cost of each item of Government property shall consist of the acquisition cost and the cost of any additional components, and shall be contained in the contractor's property control system. Unless the contractor's quantitative inventory record contains unit cost, the supplementary records containing this information must be identified and recognized as a part of the official property records. For Government-furnished property, copies of documents needed for record purposes, including pricing, will be furnished to the contractor.

(b) For property record purposes, original transportation and installation costs are to be considered as part of the acquisition cost of an item. Subsequent costs incurred in transporting and/or installing transferred or relocated property should not be added to the original acquisition cost.

§ 109-60.202 Records of plant and capital equipment.

(a) For each item of plant and capital equipment (as defined in § 109-

60.001), the contractor shall maintain an individual item record containing, at a minimum the—

(1) Contract number;

(2) Asset type (Ref. § 109-60.206);

(3) Nomenclature or description of item;

(4) U.S. Government identification tag number;

(5) Manufacturer's name;

(6) Manufacturer's model number;

(7) Serial number;

(8) Acquisition document reference and date;

(9) Location; and

(10) Unit cost (including transportation and installation).

(b) Accessory and auxiliary items that are attached to, part of, or acquired for use with a specific item of capital equipment shall be recorded on the record of the associated item of capital equipment. Useable accessory and auxiliary items that are removed from items of Government equipment shall also be separately recorded, and the cost of the basic item reduced proportionally.

§ 109-60.203 Records of materials maintained in stores.

Records of Government-owned materials maintained by the contractor in stores, and held under inventory control, shall contain the—

(a) Contract number;

(b) Nomenclature or description of item;

(c) Quantity received;

(d) Quantity issued;

(e) Balance on hand;

(f) Posting reference and date of transaction;

(g) Unit price;

(h) Location; and

(i) Disposition.

§ 109-60.204 Records of materials issued upon receipt.

(a) The property administrator may authorize the contractor to maintain, in lieu of stock records, a file of appropriately cross-referenced documents evidencing receipt, issue, and use of Government-provided material that is issued for immediate consumption and is not entered in the inventory records as a matter of sound business practice.

(b) With respect to non-profit organizations, where material is issued directly upon receipt, Government invoices, contractor's purchase documents, or other evidence of acquisition and issue will be accepted as adequate property records for material furnished to or acquired by the contractor and issued directly so as to be considered consumed under the contract.

§ 109-60.205 Financial property control reports.

The contractor shall prepare a semiannual report, as of March 31 and September 30 of each year, for each contract and subcontract thereunder showing the dollar amount and the number of line items of plant and capital equipment, by DOE asset type (see § 109-60.206), acquired or disposed of during the period. The report will show, at a minimum, the beginning balance, acquisition, disposition, and ending balance. The report format and the DOE office to which the report will be furnished will be as directed by the property administrator. The reports are due not later than 45 days after the end of the reporting period.

§ 109-60.206 DOE plant and equipment asset types.

401 Land.
410 Land Rights.
430 Minerals.
440 Timber.
460 Site Preparation, Grading and Landscaping.
470 Roads, Walks, and Paved Areas.
480 Fences and Guard Towers.
490 Other Improvements to Land.
501 Buildings.
550 Other Structures.
610 Communications Systems.
615 Electric Generation, Transmission and Distribution Systems.
620 Fire Alarm Systems.
625 Gas Production, Transmissions and Distribution Systems.
630 Irrigation Systems.
635 Railroad Systems.
640 Sewerage Systems.
645 Steam Generation and Distribution Systems.
650 Water Supply, Pumping, Treatment and Distribution Systems.
655 Nuclear Steam and Electric Generation and Transmission Systems.
660 SPR Crude Oil Piping System.

665	NPR Crude Oil Extraction and Distribution System.
710	Heavy Mobile Equipment.
715	Hospital and Medical Equipment.
720	Laboratory Equipment.
725	Motor Vehicles and Aircraft.
730	Office Furniture and Equipment.
735	Process Equipment.
740	Railroad Rolling Stock.
745	Reactors and Accelerators.
750	Security and Protection Equipment.
755	Shop Equipment.
760	Reserve Construction Equipment Pool.
765	Machine Tools in Standby.
770	Automatic Data Processing Equipment.
799	Miscellaneous Equipment.
800	Improvements to Property of Others.
900	Unclassified Plant and Equipment.

Subpart 109-60.3—Identification

§ 109-60.300 General.

(a) The contractor shall identify, mark, and record all capital and sensitive items of equipment promptly upon receipt, except leased or rented equipment, and shall maintain this identification as long as such property remains in the custody, possession, or control of the contractor. Property identification numbers will be recorded on all applicable receiving, shipping, and disposal documents, and any other documents pertaining to the property control system where practicable. Marking and numbering shall be accomplished by etching, stamping, painting, attaching metal or plastic tags or decalcomanias. Each item shall be marked "Property of the U.S. Government, Department of Energy." Information on property numbers will be furnished by the property administrator. If practicable, such markings shall be removed or obliterated from the property involved, if and when Government ownership is relinquished. Leased or rented equipment shall be identified in such manner as will not damage the property. Property which by its nature of size cannot be marked shall not be commingled with contractor-owned property unless approved by the property administrator. Where items are not susceptible to marking, they shall be subject to other specific control measures, such as custodial receipts.

(b) Where special tooling or special test equipment is utilized under a contract or subcontract, it shall be identified as required by the contracting officer.

Subpart 109-60.4—Physical Inventories

§ 109-60.400 General.

The contractor shall periodically physically inventory Government property in its possession or control and shall require such inventories of property held by subcontractors. The physical inventory shall be consistent with approved contractor procedures and generally accepted accounting principles. Procedures that are limited solely to a check-off of a listing of recorded property do not meet the requirements of a physical inventory. Personnel who perform the physical inventory shall not be the same individuals who maintain the property records or have custody of the property unless the contractor's operation is too small to do otherwise.

§ 109-60.401 Frequency.

Physical inventories of permanently affixed plant (such as fencing, buildings, other structures, utilities and systems) are to be taken not less frequently than every 10 years. Inventories of moveable capital equipment are to be taken not less frequently than every 2 years. Inventories of sensitive items (capital and non-capital) shall be taken not less frequently than annually. Substantial quantities of materials (stores) held under inventory control shall be inventoried annually. Small quantities of material representing bench stock need not be inventoried.

§ 109-60.402 Reporting results of inventories.

The contractor shall, at a minimum, submit to the property administrator a listing of all discrepancies disclosed by a physical inventory, and a signed statement that the physical inventory was completed on a certain date and that the official property records were found to be in agreement with the physical inventory, except for the discrepancies reported. As a minimum, the discrepancy listing shall contain the property number, nomenclature, and unit cost. The listing and signed statement shall be furnished with a minimum of delay after completion of the physical inventory, but no later than 60 days after its completion.

§ 109-60.403 Records of inventories.

Appropriate inventory records and reports shall be maintained and will serve as a basis for (a) effecting maximum utilization of available property, (b) prompt identification and reporting of excess property, (c) effective physical protection of property, and (d) the preparation of special and recurring reports. Full use will be made of accounting records and reports to avoid duplication.

§ 109-60.404 Inventories upon termination or completion.

(a) Immediately upon termination or completion of a contract, the contractor shall submit an inventory report adequate for determining appropriate disposal of all Government property applicable to the terminated or completed contract. Further, this report shall include an inventory report of all Government property in a subcontractor's possession or control which is also applicable to the terminated or completed contract. This inventory report will be submitted to the property administrator for verification and disposition action.

(b) *Exception.* The requirement for physical inventory of Government property at the completion of a contract may be waived by the contracting officer when the property is authorized for use on a follow-on contract, provided that—

(1) Past experience has established the adequacy of property controls; and

(2) A statement is provided by the contractor indicating that transfer of record balances has been made in lieu of preparing a formal inventory list and the contractor accepts responsibility and accountability for those balances under the terms of the follow-on contract.

Subpart 109-60.5—Care and Maintenance

§ 109-60.500 General.

The contractor shall be responsible for the proper care and maintenance of Government property in its possession or control from the time of receipt until properly relieved of responsibility. The removal of Government property to storage, or its contemplated tranfer, does not relieve the contractor of these responsibilities.

§ 109-60.501 Contractor's maintenance program.

The contractor's maintenance program shall be consistent with sound economic industrial practice, the manufacturer's recommendation, and the terms of the contract, and shall include the following:

(a) *Preventive maintenance.* Preventive maintenance is generally performed on a regularly scheduled basis in order to detect and correct unfavorable conditions or defects before they result in breakdowns and to maximize the useful life of the equipment. An effective preventive maintenance program shall consist of, but not be limited to—

(1) Inspection of equipment at periodic intervals to detect maladjustment, wear, or impending breakdown;

(2) Regular lubrication of bearings and moving parts in accordance with a lubrication plan;

(3) Adjustments for wear, repair, or replacement of work or damaged parts and the elimination of causes of deterioration;

(4) Removal of sludge, chips, and cutting oils from equipment which will not be used for a period of time;

(5) Taking necessary precautions to prevent deterioration from contamination and corrosion; and

(6) Proper storage and preservation of accessories and special tools furnished with an item of equipment but not regularly used with it.

(b) *Major repairs or rehabilitation.* The maintenance program of the contractor shall provide for the disclosure and reporting to the property administrator of the need for major repairs, replacement, and other rehabilitation work on Government property in its possession or control.

(c) *Records of maintenance.* The contractor shall keep records sufficient to disclose the maintenance and repair performed and associated cost.

Subpart 109-60.6—Utilization, Disposal, and Retirement

§ 109-60.600 General.

It is DOE's policy that all property furnished under a contract shall be utilized to the fullest extent possible. The contractor's procedures shall be adequate to assure that Government property will be utilized only for those purposes authorized in the contract, and that the contracting officer's approval is obtained prior to noncontract use.

§ 109-60.601 Maximum use of property.

Property and supply management practices shall assure that the maximum and best possible use is made of property. Materials and equipment shall be limited to those items essential for effective execution of work performed under the contract.

§ 109-60.602 Disposal.

Unless otherwise authorized, contractors having property determined to be excess shall contact the property administrator for instruction as to the proper method of disposal. Property shall not be disposed of without prior approval of the contracting officer.

§ 109-60.603 Retirement of property.

When capital equipment is worn out, lost, stolen, destroyed, abandoned or damaged beyond economical repair, it shall be listed on a retirement work order. A full explanation shall be made, supported by an investigation, if necessary, as to the date and circumstances surrounding loss, theft, destruction, or damage. The retirement work order shall be signed by the responsible contractor administrative official initiating the report and reviewed and approved by an official at least one supervisory echelon above the official initiating the report, and the property administrator. Detailed information concerning the retention and/or submission of retirement work orders will be furnished by the property administrator.

Subpart 109-60.7—Motor Vehicle and Aircraft Management

§ 109-60.700 Scope of subpart.

This subpart prescribes basic policies and procedures for the management of Government-owned motor vehicles and aircraft in the possession of off-site contractors.

§ 109-60.701 Definition.

"Government-furnished motor vehicles" are DOE-owned vehicles, vehicles leased from the General Services Administration Interagency Motor Pool System (GSA-IMPS), and vehicles leased from commercial sources.

§ 109-60.702 Policy.

(a) Government-furnished motor vehicles and aircraft shall be provided to or acquired by off-site contractors when considered essential for the performance of the contract work and when approved by the contracting officer.

(b) Government-owned motor vehicles and aircraft shall be maintained and utilized by contractors in the most practical and economical manner consistent with DOE program requirements, safety considerations, fuel economy, and applicable laws and regulations.

(c) DOE-PMR Parts 109-38 and 109-39 (41 CFR 109) contain the requirements for management of DOE-owned motor vehicles and aircraft. DOE contracting officers shall apply the applicable provisions contained therein in their management of contractor motor vehicle and aircraft operations.

(d) Contractors shall conform fully to the average fuel economy standards established by law and these regulations in the selection of Government-furnished motor vehicles.

(e) Contractors shall maintain and operate motor vehicles in such a manner as to foster reduced fuel consumption.

(f) Normally, motor vehicles will not be furnished to fixed-price contractors.

(g) Prior approval of GSA must be obtained before—

(1) Fixed-price contractors can use the GSA-IMPS; and

(2) DOE-owned motor vehicles can be furnished to any contractor in an area served by a GSA-IMPS.

§ 109-60.703 Classification of motor vehicles.

Because of differences in controls or limitations on possession and use, Government vehicles are classified as follows:

(a) Passenger vehicles.

(1) Sedans and station wagons (small, subcompact, compact, mid-size, and large).

(2) Ambulances.

(3) Buses.

(b) Trucks.

(1) Light, less than 8,500 GVWR (Gross Vehicle Weight Rating).

(i) 4 x 2.

(ii) 4 x 4.

(2) Light, 8,500 to 12,499 GVWR.

(i) 4 x 2.

(ii) 4 x 4.

(3) Medium, 12,500 to 23,999 GVWR.

(4) Heavy, 24,000 GVWR or more.

(c) Special purpose vehicles.

(1) Fire trucks.

(2) Construction vehicles.

(3) Other vehicles equipped for special purposes.

§ 109-60.704 Acquistion of motor vehicles.

(a) GSA has the responsibility for procurement of motor vehicles for Government agencies.

(b) Contractors shall submit motor vehicle requirements to the contracting officer for approval.

(c) The acquisition of passenger vehicles is limited to small, subcompact, and compact vehicles which meet Government fuel economy standards.

(d) The DOE Procurement and Contracts Management Directorate, Headquarters, (PR-221), shall certify all requisitions for the following:

(1) The acquisition of small, subcompact, and compact passenger vehicles.

(2) The lease (60 continuous days or more) of any passenger automobile.

(3) The acquisition or lease (60 continuous days or more) of light trucks less than 8,500 GVWR.

(e) Purchase requisitions for acquisition of passenger vehicles by purchase or lease must be processed in accordance with 41 CFR 109-38.1306.

(f) Purchase requisitions for other motor vehicles may be submitted to GSA as directed by the contracting officer.

(g) Contractors shall thoroughly examine motor vehicles acquired under a GSA contract for defects. Any defect shall be reported promptly to GSA, and repairs shall be made under terms of the warranty.

§ 109-60.705 Identification of motor vehicles.

(a) Except as indicated in § 109-60.705(b), DOE-owned motor vehicles will have Government license tags and the following identification, which will be furnished and displayed as specified by the property administrator:

For Official Use Only
U.S. Government
Department of Energy

(b) Security vehicles may be exempted from the above requirements by the contracting officer. All other exemptions require approval by the DOE Director of Procurement and Contracts Management Directorate.

§ 109-60.706 Use of the GSA Interagency Motor Pool System.

Where authorized by the contracting officer, contractors may use the services of the GSA-IMPS.

§ 109-60.707 Official use of motor vehicles.

Government-owned vehicles are to be used for "Official Use Only." Contracting officers may approve home-to-work or work-to-home transportation on a one-time exceptional basis. Home-to-work or work-to-home transportation on a continuing basis requires approval of the head of the cognizant DOE field office. Records of such approvals will be kept on file.

§ 109-60.708 Maintenance.

Contractors shall maintain Government-owned vehicles according to a systematic written procedure and in accordance with manufacturer's specifications and the terms of the warranty. The GSA publication "Guide for the Preventive Maintenance of Motor Vehicles" provides guidance for the maintenance of Government-owned vehicles.

§ 109-60.709 Disposition of motor vehicles.

(a) The contractor shall dispose of DOE-owned motor vehicles as directed by the contracting officer.

(b) DOE-owned motor vehicles may be disposed of as exchange/sale items when directed by the contracting officer; however, a designated DOE official must execute the Title Transfer forms.

§ 109-60.710 Required motor vehicle reports.

Contractors shall submit the following annual fiscal year-end reports of Government-furnished motor vehicles to the contracting officer. Information on preparation and submission of the reports will be furnished by the property administrator.

(a) Agency Report of Motor Vehicle Data (Standard Form 82).

(b) Special Purpose Vehicle Report.

(c) Age and Mileage Analysis.

§ 109-60.711 Aircraft.

(a) Acquisition of aircraft requires statutory authority. Contracting officers may authorize a lease, rental, hire, or loan of an aircraft if the period is less than 30 days. If longer than 30 days, approval must be obtained from the DOE Director of Procurement and Contracts Management.

(b) Aircraft shall be used for official purposes only.

Subparts 109-60.8—109-60.46 [Reserved]

Subpart 109-60.47—Reports

§ 109-60.4700 Required reports.

Following is a summary listing of those property reports required to be submitted by the contractor, along with the frequency of the reports and the subpart which describes the report:

(a) Loss, damage, or destruction of Government property (On occurrence) § 109-60.102(b).

(b) Loss due to theft (On Occurrence) § 109-60.102(c).

(c) Financial property control reports (Semi-annual) § 109-60.205.

(d) Physical inventories of permanently affixed plant (Not less frequently than every 10 years) § 109-60.402.

(e) Physical inventories of capital equipment (Not less frequent than biennial) § 109-60.402.

(f) Physical inventories of sensitive items (Not less frequently than annual) § 109-60.402.

(g) Termination inventories (Termination or completion) § 109-60.404.

(h) Motor vehicle reports (Annual) § 109-60.710.

CHAPTER 114—DEPARTMENT OF THE INTERIOR

NOTE: Nomenclature changes affecting this chapter appear at 42 FR 10002, Feb. 18, 1977; 42 FR 13829, Mar. 14, 1977; 42 FR 24740, May 16, 1977 and 46 FR 52364, Oct. 27, 1981.

Part		Page
114-1	Introduction	226
114-3	Annual real property inventories	227
114-19	Construction and alteration of public buildings	229
114-25	General	230
114-26	Procurement sources and programs	233
114-27	Inventory management	236
114-28	Storage and distribution	237
114-30	Federal catalog system	238
114-38	Motor equipment management	239
114-39	Interagency motor vehicle pools	251
114-40	Transportation and traffic management	253
114-41	Audit of transportation payments	254
114-42	Property rehabilitation services and facilities	254
114-43	Utilization of personal property	255
114-44	Donation of personal property	260
114-45	Sale, abandonment, or destruction of personal property	261
114-46	Utilization and disposal of personal property pursuant to exchange/sale authority	266
114-47	Utilization and disposal of real property	267
114-50	Uniform relocation assistance and real property acquisition policies	281
114-51	Provision and assignment of quarters and furnishings	312
114-52	Establishment of quarters rental rates	319
114-60	Personal property management	337

PART 114-1—INTRODUCTION

Subpart 114-1.1—Regulation System

Sec.
114-1.100 Scope of subpart.
114-1.101 Federal Property Management Regulations System.
114-1.102-50 Interior Property Management Regulations.
114-1.103-50 IPMR Temporary Regulations.
114-1.104-50 Publication and distribution of IPMR.
114-1.104-50.1 Publication.
114-1.104-50.2 Distribution.
114-1.104-50.3 Filing.
114-1.105-50 Authority for IPMR System.
114-1.106-50 Applicability of IPMR.
114-1.107-50 Consultation regarding IPMR.
114-1.108-50 Interior implementation and supplementation of FPMR.
114-1.109-50 Numbering in IPMR System.
114-1.110 Deviation.

AUTHORITY: 5 U.S.C. 301 and 40 U.S.C. 486(c).

SOURCE: 42 FR 30196, June 13, 1977, unless otherwise noted.

Subpart 114-1.1—Regulation System

§ 114-1.100 Scope of subpart.

This subpart describes the Department of the Interior Property Management Regulations System which establishes uniform property management policies, regulations, and procedures for use throughout the Department of the Interior.

§ 114-1.101 Federal property management regulations system.

The Federal Property Management Regulations System is the basis of the Interior Property Management Regulations System.

§ 114-1.102-50 Interior property management regulations.

Interior Property Management Regulations (IPMR) are issued only as needed to (a) supplement the Federal Property Management Regulations (FPMR) governing the acquisition, utilization, management, and disposition of real and personal property, and (b) to implement other property management policies and regulations promulgated by the Office of Management and Budget and the General Services Administration.

§ 114-1.103-50 IPMR temporary regulations.

(a) IPMR Temporary Regulations shall be issued when: (1) Time is limited;

(2) The regulation is not of a permanent nature or is subject to frequent changes.

(b) Each Temporary Regulation not subject to frequent changes shall have an established expiration date or be scheduled for conversion to a permanent regulation.

§ 114-1.104-50 Publication and distribution of IPMR.

§ 114-1.104-50.1 Publication.

All IPMR issuances shall be published on looseleaf, light green paper. Permanent regulations shall first be published in the FEDERAL REGISTER under this 41 CFR Part 114, then reproduced and transmitted as 400 DM Additions to the FPMR. Temporary regulations shall be published as numbered memoranda identified as "Interior Property Management Regulations Temporary Regulations."

§ 114-1.104-50.2 Distribution.

All IPMR issuances shall receive the same distribution as FPMR amendments. Requests for a change in either the quantity or the address shall be forwarded to the Division of Property Management in the Office of Acquisition and Property Management.

[42 FR 30196, June 13, 1977]

§ 114-1.104-50.3 Filing.

As described in 400 DM 1, the IPMR are to be interleaved with looseleaf editions of the Federal Property Management Regulations.

§ 114-1.105-50 Authority for IPMR System.

Interior Property Management Regulations (IPMR) are prescribed by the Secretary under authority of 5 U.S.C. 301, 40 U.S.C. 486(c), 41 CFR 101-1.108, and other authorities specifically cited in the text.

§ 114-1.106-50 Applicability of IPMR.

The Interior Property Management Regulations System applies to all bureaus and offices in the Department of the Interior unless otherwise indicated in the IPMR or specifically excluded by law.

§ 114-1.107-50 Consultation regarding IPMR.

IPMR of more than a routine nature are developed in consultation with affected bureaus and offices. Additionally, five interbureau property management committees have been established for consultation and assistance in the formulation of Departmental policies and procedures in the following areas of property management: (a) Personal property; (b) real property—utilization, disposal, inventory, and controls; (c) real property—acquisition and relocation; (d) quarters; (e) appraisal.

§ 114-1.108-50 Interior implementation and supplementation of FPMR.

(a) As provided in IPMR 114-1.102, the Department shall issue IPMR to supplement or expand upon material already covered in the basic FPMR. In the absence of any IPMR issuance, the basic FPMR material shall govern.

(b) The IPMR System shall also be used to incorporate property management policies and procedures related to subject matter not covered in the FPMR.

(c) The IPMR shall be consistent with the policies and procedures contained in the FPMR and shall not duplicate or paraphrase FPMR material.

§ 114-1.109-50 Numbering in IPMR System.

(a) IPMR are issued in the same numerical sequence as the material covered in the FPMR except that the agency identification number is "114," the number of the chapter in Title 41 of the Code of Federal Regulations which has been assigned to the Department for publication of the IPMR.

(b) IPMR shall be numbered "50" or higher to identify any part, subpart, or section that does not have a corresponding FPMR number.

(c) Any reference to the IPMR shall clearly identify the chapter, part, section, and paragraph. The official reference for this paragraph is 41 CFR 114-1.109(c), and the informal reference is IPMR 114-1.109(c).

(d) Bureau regulations codified into the FPMR System shall be identified by alphabetical designation immediately following the Department Code (114), as specified below:

114A—Office of the Secretary
114B—Office of Administrative Services
114C—Reserved
114D—Fish and Wildlife Service
114E—Bureau of Mines
114F—Geological Survey
114G—Reserved
114H—Bureau of Indian Affairs
114J—Bureau of Land Management
114K—National Park Service
114L—Office of Territorial Affairs
114M—The Alaska Power Administration
114N—Bureau of Outdoor Recreation
114P—Mining Enforcement and Safety Administration
114R—Office of Water Research and Technology
114S—Bureau of Reclamation
114T—Bonneville Power Administration
114U—Southeastern Power Administration
114W—Southwestern Power Administration
114Y—Office of Aircraft Services
114Z—Defense Electric Power Administration

[42 FR 30196, June 13, 1977; 42 FR 32783, June 28, 1977]

§ 114-1.110 Deviation.

Any deviation from the mandatory provisions of the FPMR and IPMR requires prior written approval by the Assistant Secretary—Policy, Budget and Administration. The head of each bureau and office may request such approval by submitting a detailed justification to the Office of Acquisition and Property Management.

[42 FR 30196, June 13, 1977]

PART 114-3—ANNUAL REAL PROPERTY INVENTORIES

Subpart 114-3.1—General Provisions

Sec.
114-3.104 Source of data.
114-3.105 Agency liaison.

Subpart 114-3.2—Annual Report—Real Property Owned by the United States

Sec.
114-3.200 Scope of subpart.
114-3.201 Reporting agency.
114-3.204 Reports to be submitted.
114-3.205 Optional reporting method.
114-3.206 Preparation and due dates.

AUTHORITY: 5 U.S.C. 301, sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 34 FR 440, Jan. 11, 1969, unless otherwise noted.

Subpart 114-3.1—General Provisions

§ 114-3.104 Source of data.

Data reflected in the real property inventory reports shall be based on real property and accounting records maintained by the reporting Bureau or Office.

§ 114-3.105 Agency liaison.

The Director, Office of Acquisition and Property Management, Office of the Assistant Secretary—Policy, Budget and Administration is the designated agency representative for this Department for liaison with the General Services Administration on matters related to the owned real property inventories. Any questions concerning these inventories shall be referred to him for handling.

[40 FR 3450, Jan. 22, 1975]

Subpart 114-3.2—Annual Report—Real Property Owned by the United States

§ 114-3.200 Scope of subpart.

This subpart prescribes the procedure and forms to be used by Bureaus and Offices in connection with annual reports on real property owned by the United States, including real properties held in trust by the Bureau of Indian Affairs.

§ 114-3.201 Reporting agency.

The inventory report shall be prepared and submitted by the Bureau or Office which has basic accountability for the property, with authority to assign, reassign, or dispose of it. Thus, where one bureau holds or occupies real property under a permit, or memorandum of agreement, from another bureau, whether within or outside of this Department, the bureau granting the permit, and not the bureau occupying the real property, is always the one which must report. If the grantee bureau has any reason to believe that the grantor bureau may not be reporting such property, this should be clarified in writing between the bureaus concerned, so that both no-reporting and duplicate reporting are avoided.

§ 114-3.204 Reports to be submitted.

Each Bureau and Office having basic accountability for real property shall prepare an annual inventory report to cover such property in accordance with detailed instructions found in FPMR 101-3.2, 101-3.49, and in the following paragraphs:

(a) Reports shall be prepared on GSA Forms 1166 and 1209, except when arrangements have been made to furnish detailed machine listings and punched cards as provided in IPMR 114-3.205.

(b) GSA Form 1166: Data on this form are transposed by GSA onto punch cards and mechanically printed. It is important, therefore, that special care be taken to follow the detailed GSA instructions, regarding number of digits, placing of decimal points, etc.

(1) For purposes of this inventory, the reporting entity is an "installation".

(i) Except as provided in § 114-3.204(b)(1)(ii), below, Bureaus and Offices are authorized to determine what constitutes an "installation" for reporting purposes. However, to increase the usefulness of the real property inventory report, Bureaus and Offices are urged to:

(A) Report separately those units physically separate from each other, particularly if in different counties, or if such units have been separately authorized, individually mentioned in budget justifications, serve a different local population center, etc.

(B) Coordinate this report with the accounting system and all other complementary reporting requirements, such as budget justification and preparation, quarters' surveys and reports, land utilization and status reports, etc. The more realistically "installation" is fitted in with the bureau's other needs for information, the more readily all such data can be cross-checked, and one submission serves several reporting requirements.

(ii) Separate reports on GSA Form 1166 shall be submitted for Job Corps Conservation Centers. A separate summary report on GSA Form 1209 is not required, but Conservation Centers should be included in the summary Form 1209 for the Bureau.

(2) Bureaus and Offices shall assign an agency control number (Block 2) to each installation. This number shall identify both this Department and the Bureau, e.g., I-BIA-118, or I-EBM-224.

(3) Block 3 of GSA Form 1166 shall be left blank when a new installation is reported for the first time. The GSA control number assigned to a new installation by GSA will be made available to the reporting bureau at the time the annual machine listing is distributed. This number should be reflected in any subsequent revision of the report for the installation.

(4) Blocks 13 and 19 should express "Dates acquired" by full years, e.g., 1910-1921 and not 1910-21.

(5) In the cost block (Block 16) enter a zero for each entry of public domain land, rather than leaving this block blank. Where cost of acquired land was less than $500, enter "N" (Negligible) and explain in remarks. Except for Historic Site lands held by the National Park Service, enter the estimated amount land acquired by donation or for a nominal sum would have cost if it had been purchased at the time.

(c) GSA Form 1209: The "Remarks" block shall include a summary statement describing the nature and causes of any major or significant changes occuring in all categories of real property being reported, as compared with the prior years report. For example, if a bureau's land holdings show a significant increase, it should be made clear whether this is due to continuing small acquisitions at most installations, or a few large acquisitions pursuant to a new program.

(d) Consolidated GSA Form 1166: Each Bureau and Office shall prepare and submit, in original only, a consolidated GSA Form 1166 report of all of its real property holdings as of June 30 each year. Only Blocks 1, 6, and 11 through 30 need be completed.

[34 FR 440, Jan. 11, 1969, as amended at 40 FR 12790, Mar. 21, 1975]

§ 114-3.205 Optional reporting method.

Any Bureau or Office desiring to submit its real property inventory in the form of a machine listing supported by punch cards shall notify the Director, Office of Acquisition and Property Management so that appropriate arrangements can be made with the central office of the General Services Administration.

[40 FR 12791, Mar. 21, 1975]

§ 114-3.206 Preparation and due dates.

The annual inventory report on GSA Forms 1166 and 1209 shall be prepared as of June 30 of each year and transmitted to reach the Director, Office of Acquisition and Property Management by not later than August 21, in the number of copies indicated below.

GSA Form 1166. An original and one copy. A complete file of all current individual installation reports shall be maintained by the bureau headquarters office.

GSA Form 1209. An original and two copies, and one copy to be retained by the bureau headquarters office.

Consolidated GSA Form 1166. An original only is required for retention and use by the Director, Office of Acquisition and Property Management.

[40 FR 12791, Mar. 21, 1975]

PART 114-19—CONSTRUCTION AND ALTERATION OF PUBLIC BUILDINGS

Subpart 114-19.6—Accommodations for the Physically Handicapped

Sec.
114-19.602 Definitions.
114-19.603 Standards.
114-19.607 Reporting.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 5 U.S.C. 301, 40 U.S.C. 486(c).

Subpart 114-19.6—Accommodations for the Physically Handicapped

SOURCE: 40 FR 25593, June 17, 1975, unless otherwise noted.

§ 114-19.602 Definitions.

For purposes of this Subpart 114-19.6, the definition of "buildings" contained in 41 CFR 101-19.602 shall be construed to exclude the following buildings which are the responsibility of the General Services Administration:

(a) Federally-owned buildings under the control and management of the General Services Administration where a Bureau or Office of this Department occupies space in the building as a "tenant," or

(b) Leased buildings where the General Services Administration administers the lease and a Bureau or Office of this Department occupies space in the building as a "tenant".

§ 114-19.603 Standards.

The head of each Bureau and Office is responsible for ensuring that all buildings under his jurisdiction which are subject to the provisions of 41 CFR 101-19.6 are designed, constructed, or altered in accordance with the minimum standards in the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped, Number A117.1-R1971."

§ 114-19.607 Reporting.

The semiannual report required by 41 CFR 101-19.607 shall be prepared in accordance with the instructions contained in 41 CFR 101-19.607, on the reverse side of GSA Form 2974 and, in the following paragraphs:

(a) Separate reports should be submitted for (1) Government-owned buildings, (2) Government-leased buildings, (3) buildings funded by grant and, (4) buildings funded by loan.

(b) In reporting buildings being constructed or altered by or on behalf of the Bureau or Office at an existing "installation," as referred to in IPMR 114-3.204, include in the column headed "Name of building" on GSA Form 2974, the GSA control number assigned to the installation involved.

(c) GSA Form 2974 shall be signed by the head of the Bureau or Office, or his designee, not below the Chief Administrative Officer of the Bureau. This official's signature on the report carries with it a certification to the effect that all buildings subject to the Architectural Barriers Act are reported and that the buildings are in compliance with that Act.

(d) Each separate report specified in IPMR 114-19.607(a) shall be consolidated for the Bureau or Office and transmitted, in duplicate, to reach the Director, Office of Acquisition and Property Management by not later than March 10 and September 10 of each year.

[40 FR 25593, June 17, 1975]

PART 114-25—GENERAL

Subpart 114-25.1—General Policies

Sec.

114-25.100 Use of Government personal property and nonpersonal services.
114-25.104 Acquisition of office furniture and typewriters.
114-25.104-1 Redistribution, repair, or rehabilitation.

Subpart 114-25.3—Use Standards

114-25.302 Office furniture, furnishings and equipment.
114-25.302-1 Executive type office furniture and furnishings.
114-25.302-3 Electric typewriters.
114-25.303 Gasoline for use in motor vehicles.
114-25.304 Additional systems and equipment for passenger motor vehicles.
114-25.350 Standard lettering for bench marks and corner markers.
114-25.351 Prohibition against use of lead-based paint in Federal and federally assisted construction.

Subpart 114-25.48—Reports

114-25.4801 Supply activity report.
114-25.4801-50 Responsibility for review.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 5 U.S.C. 301, 40 U.S.C. 486(c).

Subpart 114-25.1—General Policies

§ 114-25.100 Use of Government personal property and nonpersonal services.

The head of each bureau and office is responsible for ensuring that the provisions of § 101-25.100 of this title are enforced. The use of personal property and nonpersonal services is authorized as being for an officially designated purpose in rendering assistance in major disasters or other emergency situations pursuant to 205 DM 1 and 905 DM 1. It is also proper to make personal property available to a contractor, grantee, or cooperator when there is specific statutory authority for such use.

[41 FR 4927, Feb. 3, 1976]

§ 114-25.104 Acquisition of office furniture and typewriters.

In making a determination as to whether requirements can be met through the utilization of already owned furniture and typewriters, reasonable efforts shall be made to determine whether such items are available from other bureau offices and other bureaus of the Department within a reasonable transport distance. Such efforts shall include direct inquiries and shall not be limited to a review of available property circularized in accordance with IPMR 114-43.102-52.

[36 FR 12834, July 8, 1971]

§ 114-25.104-1 Redistribution, repair, or rehabilitation.

In furtherance of the intent of FPMR 101-25.104-1, particular consideration shall be given to the advantages of instituting a Bureau-wide program for the repair and rehabilitation of office furniture and typewriters already in bureau inventories in lieu of new procurement.

[36 FR 12834, July 8, 1971]

Subpart 114-25.3—Use Standards

§ 114-25.302 Office furniture, furnishings, and equipment.

[36 FR 19026, Sept. 25, 1971]

§ 114-25.302-1 Executive type office furniture and furnishings.

(a) The head of each bureau and office, or his designee, and the Director of Administrative Service are authorized to make the determinations contemplated by FPMR 101-25.302-1(a).

(b) New executive and unitized wood office furniture may be procured for personnel entitled to it on the basis of the standards in FPMR 101-25.302-1 (a) and (b) if the required furniture is not available from Bureau-owned unassigned inventory, and reassignment of furniture in accordance with FPMR 101-25.302-1(c) is determined to be uneconomical.

[36 FR 19026, Sept. 25, 1971]

§ 114-25.302-3 Electric typewriters.

(a) [Reserved]

(b) Electric typewriters meeting the replacement standards prescribed in FPMR 101-25.403 may be assigned to stations not meeting the use standards criteria in FPMR 101-25.302-3. This will permit the use of such typewriters for less demanding work such as draft preparation and informal correspondence and often avoid the cost of purchasing new manual typewriters for such purposes. The overhaul or repair criteria in the replacement standards contemplates restoration to a condition suitable for the rigid work requirements of the use standards. A lesser degree of restoration or none at all will often suffice for less demanding use.

[37 FR 11460, June 8, 1972]

§ 114-25.303 Gasoline for use in motor vehicles.

In addition to using unleaded gasoline as required by FPMR 101-25.303, Interior employees shall use self-service pumps when such use will result in the purchase of gasoline at the lowest available price.

[42 FR 39978, Aug. 8, 1977]

§ 114-25.304 Additional systems and equipment for passenger motor vehicles.

(a) In addition to the guidelines required to be met by FPMR 101-25.304, the essentiality of such additional systems or equipment for vehicles already in service shall be weighed against the economic factors involved and potential benefits to be derived therefrom.

(b) The determination with respect to procurement of additional systems and equipment for passenger motor vehicles already in service should not be made by an official below the regional or comparable office level.

[36 FR 22812, Dec. 1, 1971]

§ 114-25.350 Standard lettering for bench marks and corner markers.

The minimum standard lettering to be used to identify all bench mark tables is as follows:

U.S. DEPARTMENT OF THE INTERIOR

Height of lettering: ¼ inch.
Width of letters at surface: .040 inch.

UNLAWFUL TO DISTURB

Height of lettering: 5/32 inch.
Width of letters at surface: .032 inch.

Exceptions to the use of the foregoing lettering will be granted only where special circumstances warrant exemption. Requests for such exemption shall be transmitted through Bureau channels to the Director, Office of Acquisition and Property Management, Office of the Assistant Secretary—Policy, Budget and Administration.

[37 FR 7092, Apr. 8, 1972. Redesignated at 37 FR 12144, June 20, 1972, and amended at 39 FR 12989, Apr. 10, 1974; 40 FR 3450, Jan. 22, 1975]

§ 114-25.351 Prohibition against use of lead-based paint in Federal and Federally assisted construction.

(a) The Lead-Based Paint Poisoning Prevention Act (Pub. L. 91-695, 84 Stat. 2078) prohibits the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government or with Federal assistance in any form.

(b) As amended by the National Consumer Health Information and Health Promotion Act of 1976 (Pub. L. 94-317, 42 U.S.C. 4801), the responsibility for enforcing the prohibition against the use of lead-based paint was shifted from the Secretary of Health, Education and Welfare to the Secretary of Housing and Urban Development.

(c) The Secretary of Housing and Urban Development published implementing regulations in Part 35 or Title 24, Code of Federal Regulations which are applicable to all Federal agencies.

(d) Lead content is the percentage of lead by weight (calculated as lead metal) in the total non-volatile content of the paint or in the dried film of paint already applied. Currently, lead-based paint means any paint containing more than five-tenths of 1 per centum lead by weight. Any paint manufactured after June 22, 1977, will be lead-based if it contains more than six one-hundredths of 1 per centum lead by weight.

(e) "Residential structure" means any house, apartment, or structure intended for human habitation including any institutional structure where persons reside such as an orphanage, boarding school dormitory, day care center, or extended-care facility.

(f) Implementation. (1) All Department of the Interior activities shall comply with the prohibition against the use of lead-based paint in Federal and Federally assisted construction and shall not use, or permit the use of, lead-based paint on applicable surfaces of any residential structure being constructed or rehabilitated. As defined in 24 CFR Part 35, "applicable surfaces" means all interior surfaces and those exterior surfaces which are readily accessible to children under seven years of age.

(2) The head of each bureau and office shall issue regulations and take such other steps as in his/her judgement are necessary to prohibit the use of lead-based paint on applicable surfaces of any residential structures constructed or rehabilitated under any Federal or Federally assisted program under his/her jurisdiction. Such regulations shall require the inclusion of appropriate provisions in contracts and subcontracts (pursuant to which such Federal or Federally assisted construction or rehabilitation is to be performed) to prohibit the use of lead-based paint, and shall also provide for enforcement of that prohibition.

[42 FR 23151, May 6, 1977]

Subpart 114-25.48—Reports

§ 114-25.4801 Supply Activity Report.

Unless excepted under the provisions of FPMR 101-24.4801(c), each bureau and office shall:

(a) Prepare GSA Form 1473, Supply Activity Report, in accordance with the instructions, and

(b) Submit the original and two copies of a consolidated report to the Office of Acquisition and Property Management, within 45 calendar days after the close of each fiscal year. Negative reports are required and may be submitted in memorandum form.

[41 FR 24124, June 15, 1976]

§ 114-25.4801-50 Responsibility for review.

Reports submitted by field offices shall be reviewed at the headquarters level of each bureau and office, and appropriate corrective action shall be initiated promptly in those instances where the review discloses a need for improvement in supply activities.

[40 FR 3596, Jan. 23, 1975]

PART 114-26—PROCUREMENT SOURCES AND PROGRAMS

Subpart 114-26.3—Procurement of GSA Stock Items [Reserved]

Subpart 114-26.4—Purchase of Items From Federal Supply Schedule Contractors

Sec.
114-26.406 U.S. Government National Credit Card for use in obtaining service station deliveries and services.
114-26.406-1 General.

Subpart 114-26.5—GSA Procurement Programs

114-26.501 Purchase of new motor vehicles.
114-26.501-1 General.
114-26.501-2 Consolidated purchase program.
114-26.501-6 Forms used in connection with delivery of vehicles.
114-26.501-50 Definitions.
114-26.501-51 Limitation on the acquisition of passenger-carrying motor vehicles.
114-26.501-52 Limitation on the acquisition of passenger automobiles.
114-26.501-53 Limitations on the acquisition of other motor vehicles.

Subpart 114-26.7—Procurement Sources Other Than GSA and the Department of Defense

Sec.
114-26.750 Procurement of tax-free alcohol.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 5 U.S.C. 301, 40 U.S.C. 486(c).

Subpart 114-26.3—Procurement of GSA Stock Items [Reserved]

Subpart 114-26.4—Purchase of Items From Federal Supply Schedule Contractors

§ 114-26.406 U.S. Government National Credit Card for use in obtaining service station deliveries and services.

[36 FR 12102, June 25, 1971]

§ 114-26.406-1 General.

(a) The use of Standard Form 149 is encouraged, but commercial credit cards issued by Federal Supply Schedule contractors are also authorized for use.

(b) The head of each bureau and office shall determine the extent to which Standard Form 149 shall be used.

(c) Bureau and office billing code numbers are listed in § 114-38.12.

[41 FR 26572, June 28, 1976]

Subpart 114-26.5—GSA Procurement Programs

SOURCE: 43 FR 761, Jan. 4, 1978, unless otherwise noted.

§ 114-26.501 Purchase of new motor vehicles.

Any motor vehicle acquired shall be the minimum capacity/performance and most fuel efficient vehicle which will satisfy the requirements in consideration of overall safety, economy, and efficiency. To ensure compliance with this energy conservation policy, the acquisition of all motor vehicles shall be coordinated by the Heads of Bureaus and Offices, or by their designees who may be appointed at the next lower level of authority.

43 FR 761, Jan. 4, 1978, as amended at 46 FR 52364, Oct. 27, 1981]

§ 114-26.501-1 General.

Requisitions for purchase of all new motor vehicles shall be submitted through the Heads of Bureaus and Offices, or through their designees, for certification and forwarding to GSA, as provided in FPMR § 114-26.501, in accordance with the instructions issued by that office.

[43 FR 761, Jan. 4, 1978, as amended at 46 FR 52364, Oct. 27, 1981]

§ 114-26.501-2 Consolidated purchase program.

All motor vehicle requirements shall be consolidated to the maximum extent possible consistent with FPMR 101-26.5.

§ 114-26.501-6 Forms used in connection with delivery of vehicles.

(a) Using the prescribed form, bureaus and offices shall report to GSA all motor vehicles deficiencies and repetitive failures.

(b) Separate action is required to obtain corrective action on any vehicle warranty. Deficiencies noted during the warranty period must be reported to the nearest authorized representative of the manufacturer. If not satisfactorily corrected, the deficiency must then be reported to the zone manager of the manufacturer. Any deficiency covered by a warranty should never be corrected at Government expense unless there is a dire need for the vehicle.

§ 114-26.501-50 Definitions.

As used in this regulation:

(a) "Acquired" means either purchased or leased for a period of 60 or more consecutive days, but does not include motor vehicles obtained from the GSA Interagency Motor Pool System.

(b) "Passenger-carrying vehicles" means sedans, station wagons, ambulances and buses.

(c) "Passenger automobile" means a sedan or station wagon.

(d) "Law enforcement passenger automobile" means a passenger automobile designed to be used in law enforcement work, i.e., equipped with the law enforcement component package and at least the next higher cubic inch displacement engine than is standard for the automobile concerned.

(e) "Gross Vehicle Weight" means the manufacturer's gross weight rating for the individual vehicle.

(f) "Heavy-duty vehicle" means any motor vehicle either designed primarily for transportation of property and rated at more than 6,000 pounds GVW or designed primarily for transportation of persons and having a capacity of more than 12 persons.

(g) "Light-duty truck" means any motor vehicle rated at 6,000 pounds GVW or less, which is designed primarily for purposes of transportation of property or is a derivative of such vehicle, or is available with special features enabling off-street or off-highway operation and use.

(h) "Pickup" means a truck which has a passenger compartment and an open cargo bed.

(i) "Standard pickup" means a pickup having a GVWR of 4,500 to 6,000 pounds.

(j) "Small pickup" or "compact pickup" means a pickup having a GVWR under 4,500 pounds.

(k) "Fuel economy standard" means the fuel economy standard established by the National Highway Traffic Safety Administration for a specific class of vehicle in a particular model year.

(l) "Fleet average fuel economy" means the average miles per gallon for the total number of a particular class of motor vehicle acquired during the fiscal year.

§ 114-26.501-51 Limitation on the acquisition of passenger-carrying motor vehicles.

(a) Passenger-carrying motor vehicles may be purchased or hired only if specifically authorized by the appropriation concerned or other law (31 U.S.C. 631a(a)), and then the quantity is limited to the number specified in the appropriation act. This limitation applies to both additions and replacements, and all of the following acquisition actions are chargeable to the number of passenger-carrying vehicles that have been authorized:

(1) Purchase.

(2) Hire or lease for a period of 60 or more consecutive days.

(3) Acquisition from excess sources with reimbursement.

(4) Acquisition from excess sources without reimbursement, unless an equal number of passenger-carrying vehicles is reported to GSA as excess within 30 days after receipt of the newly acquired excess vehicles.

(5) Acquisition from excess sources on a loan basis for more than 60 days.

(b) Each bureau/office shall establish and maintain controls at the headquarters office level as necessary to ensure that Congressional authorizations are not exceeded.

§ 114-26.501-52 Limitations on the acquisition of passenger automobiles.

(a) The acquisition of limousines is prohibited.

(b) No passenger automobile (sedan or station wagon) larger than a compact (class II) may be acquired unless it is certified that the larger vehicle is essential to the mission and the justification for the proposed acquisition is approved by the Director, Office of Acquisition and Property Management.

(c) No passenger automobile (sedan or station wagon) may be acquired unless it meets or exceeds the average fuel economy standard established for that model year unless:

(1) It is certified that the less fuel efficient vehicle is essential to the mission;

(2) The justification for the proposed acquisition is approved by the Director, Office of Acquisition and Property Management, with such approval contingent upon the concurrence of the Administrator of General Services and the Secretary of Energy; and

(3) Any such automobile is included in the calculation of the bureau/office fleet average fuel economy which must meet or exceed the fleet average fuel economy objective established for that fiscal year.

§ 114-26.501-53 Limitations on the acquisition of other motor vehicles.

The acquisition of all motor vehicles is subject to any limitation that may be established by the Director, Office of Acquisition and Property Management.

Subpart 114-26.7—Procurement Sources Other Than GSA and the Department of Defense

§ 114-26.750 Procurement of tax-free alcohol.

(a) Regulatory requirement. Governmentwide regulations governing the procurement and use of tax-free alcohol are contained in Part 213 of Title 26, Code of Federal Regulations.

(b) Departmental policy. It is the policy of the Department of Interior to utilize tax-free ethyl alcohol and tax-free specially denatured alcohol only when no other acceptable commercial product exists or can be procured. To ensure that this policy is strictly enforced, an annual review shall be made to determine the availability of acceptable commercial products which may be substituted for tax-free alcohol without adversely affecting the quality of the work performed or the health or safety of employees.

(c) Tax-free permits. The Bureau of Alcohol, Tobacco and Firearms has issued permits for the purchase of tax-free alcohol and specially denatured spirits for use in the United States and the Territories and possessions. The following is a list of the current permits and the names and addresses of the manufacturers from whom such items should be procured:

Manufacturer	Tax-free permit
U.S. Industrial Chemicals, Inc., Division of National Distillers Products Corp., Industrial Alcohol Bonded Warehouse No. 112, Anaheim, Calif.	US-TF-136.
U.S. Industrial Chemicals, Inc., Division of National Distillers Products Corp., Industrial Alcohol Bonded Warehouse No. 7, Boston, Mass.	US-TF-137.
U.S. Industrial Chemicals, Inc., Division of National Distillers Products Corp., Industrial Alcohol Bonded, Warehouse No. 2, New Orleans, La.	US-TF-138.
Publisher Industries, Inc., Industrial Alcohol Bonded Warehouse No. 160, Philadelphia, Pa.	US-TF-139.
Commercial Solvents Corp., Industrial Alcohol Bonded Warehouse No. 25, Agnew, Calif.	US-TF-140.
Shell Chemical Corp., Industrial Alcohol Bonded Warehouse No. 224, Culver City, Calif.	US-TF-141.

Manufacturer	Tax-free permit
U.S. Industrial Chemicals Co., Division of National Distillers & Chemical Corp., Industrial Alcohol Bonded Warehouse, No. 418, Tuscola, Ill.	US-TF-142.
U.S. Industrial Chemicals Co., Division of National Distillers Products Corp., Industrial Alcohol Bonded Warehouse No. 158, Newark, N.J.	US-TF-143.
Carbide & Carbon Chemicals Co., Industrial Alcohol Bonded Warehouse No. 218, Whiting, Ind.	US-TF-144.
California Packing Corp., Industrial Alcohol Bonded Warehouse No. 77, Honolulu, Hawaii.	US-TF-145.
	Specially Denatured Permit
U.S. Industrial Chemicals Co., Division of National Distillers Products Corp., Anaheim, Calif.	US-SDS-74.
Commercial Solvents Corp., Agnew, Calif	US-SDS-75.
Commercial Solvents Corp., Terre-Haute, Ind.	US-SDS-76.

Requests for any additional permits should be submitted through Bureau channels to the Director, Office of Acquisition and Property Management, Office of the Assistant Secretary—Policy, Budget and Administration, for transmittal to the Bureau of Alcohol, Tobacco and Firearms.

[40 FR 3450, Jan. 22, 1975. Redesignated at 40 FR 10469, Mar. 6, 1975]

PART 114-27—INVENTORY MANAGEMENT

Subpart 114-27.2—Management of Shelf-Life Materials

Sec.

114-27.207 Control and inspection.
114-27.207-1 Agency controls.

Subpart 114-27.3—Maximizing Use of Inventories

114-27.301 Definitions.
114-27.303 Reducing long supply.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 5 U.S.C. 301, 40 U.S.C. 486(c).

Subpart 114-27.2—Management of Shelf-Life Materials

§ 114-27.207 Control and inspection.

[36 FR 19026, Sept. 25, 1971. Redesignated at 41 FR 24124, June 15, 1976]

§ 114-27.207-1 Agency controls.

The head of each bureau and office shall establish procedures and controls as necessary to:

(a) Identify those items carried in inventories which have a shelf life of 36 months or less.

(b) Insure that items identified in accordance with paragraph (a) of this section are readily identifiable from inventory records.

(c) Insure that items having a shelf life are stored in such a way that the oldest stock will be issued first.

(d) Provide for periodic analyses of shelf-life materials to determine whether or not quantities on hand will be issued prior to expiration of the designated shelf life.

(e) Install procedures which will insure maximum utilization of shelf-life items prior to deterioration, either by the holding office or through available or excess property utilization channels.

(f) Schedule, insofar as practicable, procurement of self-life items so as to minimize the risk of losses through deterioration.

[36 FR 19026, Sept. 25, 1971. Redesignated at 41 FR 24124, June 15, 1976]

Subpart 114-27.3—Maximizing Use of Inventories

§ 114-27.301 Definitions.

(a) "Long supply" as defined in FPMR 101-27.301(a) is further defined as that portion of the inventory which meets all of the following conditions:

(1) Is in excess of normal requirements for a given period;

(2) Is being retained because it will ultimately be used;

(3) Is more economical to retain than to dispose and reacquire when and as needed; but

(4) which the holding bureau or office is willing to transfer to fill specific needs within the bureau or within the Department.

[36 FR 19026, Sept. 25, 1971]

§ 114-27.303 Reducing long supply.

(a) The head of each bureau and office is responsible for establishing procedures to identify "long supply" items as herein defined. Such procedures shall include, as a minimum:

(1) Periodic review of inventories or inventory records to identify those items falling into the "long supply" category.

(2) Circularization of "long supply" items to other bureaus and offices in accordance with IPMR 114-43.1, except that such circularization should be without regard to whether the items are reportable or nonreportable property and should be limited to those offices known to use the items being circularized.

(3) The circularization notice should indicate that the items listed are in "long supply" and whether or not reimbursement is required. Bureaus and offices may elect to require reimbursement at transfer values agreed to by the transferor and transferee offices.

(4) Bureaus and offices should not request transfer of any "long supply" items circularized as above, unless they have a specific need for the property and acquisition will not create a "long supply" inventory at the transferee office.

(5) Bureaus and offices to which "long supply" inventory circularization notices are sent shall maintain a file of such notices. In the event a subsequent need arises for any items listed, inquiry shall be made of the holding bureau or office to determine whether the items are still available for transfer before initiating new procurement.

[36 FR 19026, Sept. 25, 1971]

PART 114-28—STORAGE AND DISTRIBUTION

Subpart 114-28.50—Cross-servicing Arrangements for Motor Vehicle Fuel and Oil

Sec.
114-28.5000 Scope of subpart.
114-28.5001 Departmental policy.
114-28.5002 Semi-annual report.

APPENDIX A—GSA BULLETIN FPMR G-36.

AUTHORITY: (5 U.S.C. 301), sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

SOURCE: 40 FR 13218, Mar. 25, 1975, unless otherwise noted.

Subpart 114-28.50—Cross-Servicing Arrangements for Motor Vehicle Fuel and Oil

§ 114-28.5000 Scope of subpart.

This subpart implements GSA Bulletin FPMR G-36 which provides guidelines for use in making cross-servicing arrangements for motor vehicle fuel and oil. GSA Bulletin FPMR G-36 is incorporated herein as Appendix A.

§ 114-28.5001 Departmental policy.

It is the Department's policy to encourage the Bureaus and Offices to utilize the fuel dispensing facilities operated by other agencies under cross-servicing arrangements whenever program activities and the geographical locations thereof make such arrangements practicable. Similarly, Bureaus and Offices operating bulk dispensing facilities are encouraged to make such facilities and services available to other Federal agencies: *Provided that,* Such cross-servicing can be provided without additional staff or an expansion of existing facilities, and within the normal working hours of the installation involved.

§ 114-28.5002 Semi-annual report.

Each Bureau and Office dispensing automotive fuel and oil to other agencies under cross-servicing arrangements shall submit a semi-annual report on such activities to reach the Director, Office of Acquisition and Property Management by the 20th of the month following the six-month period ending June 30 and December 31 of each year. The report should be submitted as an attachment to a transmittal memorandum and contain the data specified in paragraph 5 of Appendix A of this subpart.

APPENDIX A—GSA BULLETIN FPMR G-36

TRANSPORTATION AND MOTOR VEHICLES

To: Heads of Federal Agencies.
Subject: Cost reduction obtainable through cross-servicing arrangements for motor vehicle fuel and oil.

1. *Purpose.* This bulletin suggests guidelines for use in making cross-servicing arrangements for automotive fuels.

2. *Expiration date.* This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. *Background.* GSA Bulletin FPMR No. G-23 suggested guidelines for Federal agencies to follow in obtaining cost savings through cross-servicing arrangements for motor vehicle fuel and oil. The use of Government automotive fuel dispensing facilities, to the maximum extent possible, implements the Presidential directive that the concept of cross-servicing be expanded. This bulletin continues in effect the guidelines established by GSA Bulletin FPMR No. G-23.

4. *Cross-servicing arrangements.* Agencies operating automotive fuel dispensing facilities are urged to make available such facilities for the use of other agencies, and for the use of vehicles operated by agency contractors in connection with Government contracts. Agencies not having such facilities should make arrangements for cross-servicing as promptly as possible. Only instances of operational or geographical impracticality should mitigate against the adoption of such cross-servicing arrangements.

a. Cross-servicing arrangements should include (1) provisions for forecasting requirements at appropriate intervals, and (2) provisions for reimbursement, including overhead and labor, to the servicing agency.

b. Where automated accounting techniques are not immediately adaptable to reimbursable arrangements, manual procedures should be used to take immediate advantage of this cost reduction potential.

c. Servicing agencies and agencies furnishing motor vehicles should post a list of Government fuel dispensing facilities located in the area customarily traveled by Government vehicles.

d. All agencies should prepare and issue to each operator using Government-owned vehicles, or contractor vehicles used exclusively in connection with Government contracts, a list of Government fuel dispensing facilities located in the area customarily traveled and a statement that automotive fuels should be procured at other outlets only in emergency situations or in areas where Government dispensing facilities are not practically available.

5. *Agreements established.* All servicing agencies are requested to advise the General Services Administration on the 25th day following the close of each semi-annual period, of the cross-servicing arrangements established, the city of the servicing agency, the agencies serviced, total gallonage dispensed by such servicing facility, the bulk price per gallon, and the prevailing price per gallon at commercial outlets at the time of the report.

6. *Information.* Reports should be addressed to, and information concerning this bulletin may be obtained from, the General Services Administration, Transportation and Communications Service, Motor Equipment Management Division, Washington, D.C. 20405, Telephone 202-343-4761 or IDS Code 183-4761.

7. *Cancellation.* GSA Bulletin FPMR No. G-23 is canceled.

PART 114-30—FEDERAL CATALOG SYSTEM

Subpart 114-30.1 General

Sec.
114-30.103-2 Agency responsibilities.

Subpart 114-30.5 Maintenance of the Federal Catalog System

114-30.503 Maintenance actions required.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 5 U.S.C. 301.

SOURCE: 40 FR 5525, Feb. 6, 1975, unless otherwise noted.

Subpart 114-30.1—General

§ 114-30.103-2 Agency responsibilities.

(a) Each bureau and office of the Department shall:

(1) Cooperate in the conversion and utilization of the Federal Catalog System to the extent practicable and feasible without formal participation, and depend upon the General Services Administration to provide required information.

Subpart 114-30.5—Maintenance of the Federal Catalog System

§ 114-30.503 Maintenance actions required.

(a) Each bureau and office shall be responsible for submitting to the General Services Administration any GSA Form 1303 needed to request the performance of all cataloging functions and the preparation and transmission of data to DLSC when required.

PART 114-38—MOTOR EQUIPMENT MANAGEMENT

Sec.
114-38.000 Scope of part.

Subpart 114-38.0—Definition of Terms

114-38.001 Definitions.
114-38.001-50 Motor equipment.

Subpart 114-38.1—Reporting Motor Vehicle Data

114-38.100 Scope of subpart.
114-38.101 Records.
114-38.102 Preparation of Standard Form 82, Agency Report of Motor Vehicle Data.
114-38.102-1 Reporting period and submission.

Subpart 114-38.3—Official Government Tags

114-38.301 General requirements.
114-38.302 Records.
114-38.305 Display, assignment, and removal of U.S. Government tags.
114-38.305-3 Removal.

Subpart 114-38.4—Official Legend and Agency Identification

114-38.402 Agency identification.

Subpart 114-38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

114-38.605 Additional exemptions.
114-38.606 Approval of tag requests for exempted vehicles in the District of Columbia.
114-38.607 Report of exempted vehicles.

Subpart 114-38.7—Transfer of Title to Government-Owned Motor Vehicles

114-38.701 Methods of transfer.

Subpart 114-38.9—Motor Vehicle Replacement Standards

114-38.901 Applicability.
114-38.908 Exception.

Subpart 114-38.10—Preventive Maintenance of Motor Vehicles

114-38.1002 Agency requirements.
114-38.1003 Guidelines.

Subpart 114-38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

Sec.
114-38.1200 General.
114-38.1201 Billing code.
114-38.1202 Administrative control of credit cards.

Subpart 114-38.50—Official Use of Motor Vehicles

114-38.5000 Scope of subpart.
114-38.5001 Responsibility.
114-38.5002 "Government motor vehicle" defined.
114-38.5003 Authorized uses.
114-38.5004 Transportation of non-official passengers.
114-38.5005 Authorizing the use of a Government motor vehicle between an employee's residence and place of employment.
114-38.5006 Penalties for unauthorized use.

Subpart 114-38.51—Motor Vehicle Assignment Standards

114-38.5100 Scope of subpart.
114-38.5101 Purpose.
114-38.5102 Responsibility.
114-38.5103 Determination of requirements.
114-38.5104 Limitations.
114-38.5105 Allocation and utilization criteria.

Subpart 114-38.52—Utilization and Maintenance of Motor Vehicles

114-38.5201 Utilization.
114-38.5202 Maintenance.
114-38.5203 Use of motor vehicles by the Postal Service.

Subpart 114-38.53—Aircraft [Reserved]

Subpart 114-38.54—Defense of Suits Against Federal Employees

114.38.5400 Authority.
114.38.5401 Determination by the Department of Justice.
114-38.5402 Purpose of subpart.

Subpart 114-38.55—Watercraft

114-38.5500 Scope of subpart.
114-38.5501 Definition.
114-38.5502 Basic policy.
114-38.5503 Official use.
114-38.5504 Responsibility.
114-38.5505 Requirements for new watercraft.

Sec.
114-38.5506 Modification of other watercraft.
114-38.5507 Identification requirements.
114-38.5508 Training.
114-38.5509 Associated equipment requirements.
114-38.5510 Fire controls.
114-38.5511 Inspection requirements.
114-38.5512 Operating requirements.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 5 U.S.C. 301, 40 U.S.C. 486(c).

SOURCE: 35 FR 290, Jan. 8, 1970, unless otherwise noted.

§ 114-38.000 Scope of part.

This part establishes basic policies and procedures for the effective and efficient management of motor equipment and is applicable to all motor equipment owned by the bureaus and offices of the Department. The head of each bureau and office shall establish organizational lines of responsibility to control the acquisition of all types of motor equipment and to insure maximum utilization of each unit through preventive maintenance, rotation, and orderly replacement programs.

In the absence of other guidelines, such as those for GSA motor pool vehicles, the management principles set forth herein shall be applied to leased motor equipment when such equipment is leased on other than a short-term or emergency basis.

[36 FR 20293, Oct. 20, 1971]

Subpart 114-38.0—Definition of Terms

§ 114-38.001 Definitions.

As used in this Part 114-38, the following terms shall have the meanings stated:

[36 FR 20293, Oct. 20, 1971]

§ 114-38.001-50 Motor equipment.

"Motor equipment" means any item of equipment which is self-propelled or drawn by mechanical power, including motor vehicles, motorcycles and scooters, construction and maintenance equipment, materials handling equipment, aircraft, and vessels.

[36 FR 20293, Oct. 20, 1971]

Subpart 114-38.1—Reporting Motor Vehicle Data

§ 114-38.100 Scope of subpart.

This subpart sets forth the responsibility of each bureau and office for maintaining inventory, cost, and operating data needed for the management and control of motor vehicles and to fulfill the reporting requirements established herein.

[37 FR 23423, Nov. 3, 1972]

§ 114-38.101 Records.

(a) Accounting records. The head of each bureau and office is responsible for the development and maintenance of motor vehicle cost accounting records, and for the establishment of reporting procedures to insure compliance with the requirements of FPMR 101-38.1 and this Subpart 114-38.1.

(b) Utilization records, bureau-owned vehicles. Heads of bureaus and offices shall establish procedures to insure that:

(1) Records are maintained to reflect utilization data (miles or hours operated) on an individual motor vehicle basis.

(2) Utilization data are recorded each day a vehicle is operated. Data covering two or more short trips during a single day may be combined to record total utilization during that particular day.

(3) The utilization record of each motor vehicle is analyzed not less frequently than once each year by appropriate management officials, and

(4) Any necessary followup action is taken promptly to achieve maximum effective utilization at the minimum cost.

(c) Utilization records, interagency motor pool vehicles. Utilization records on interagency motor pool vehicles shall be recorded and reported in accordance with instructions issued by GSA regional offices and individual motor pools.

(d) Operator's record, Form DI-120, Operator's Record, may be used for recording utilization data prescribed in IPMR 114-38.101(b). This form is available on requisition from the Branch of Supply, Division of General

Services, Office of Administrative Services, Washington, D.C.

[37 FR 23423, Nov. 3, 1972, as amended at 41 FR 24124, June 15, 1976]

§ 114-38.102 Preparation of Standard Form 82, Agency Report of Motor Vehicle Data.

Each bureau and office which owns and/or rents motor vehicles shall prepare and submit a consolidated Standard Form 82, Agency Report of Motor Vehicle Data. Only the applicable portions of Standard Form 82 need to be completed if a bureau or office operates only rental vehicles. Section II is to be completed by all bureaus and offices owning vehicles.

[37 FR 23423, Nov. 3, 1972, as amended at 41 FR 24124, June 15, 1976]

§ 114-38.102-1 Reporting period and submission.

Both Standard Form 82 and Standard Form 82d shall be submitted in triplicate to the Office of Acquisition and Property Management within 60 calendar days after the close of each fiscal year.

[41 FR 24124, June 15, 1976]

Subpart 114-38.3—Official Government Tags

§ 114-38.301 General requirements.

The term "motor vehicle" as used in FPMR 101-38.301, means motor vehicles as defined in 40 U.S.C. 472(1).

§ 114-38.302 Records.

(a) The Director of Administrative Services will, upon request, assign "blocks" of U.S. Government tag numbers to Bureaus and Offices and will maintain a current record of such assignments.

(b) Each Bureau and Office shall maintain a current record of individual assignments of tags to the motor vehicles under its jurisdiction as required by FPMR 101-38.302.

[35 FR 290, Jan. 8, 1970, as amended at 40 FR 20818, May 13, 1975]

§ 114-38.305 Display, assignment, and removal of U.S. Government tags.

§ 114-38.305-3 Removal.

(a) Official U.S. Government tags shall be removed from motor vehicles transferred to another Bureau or Office of the Department of the Interior. Tags may be transferred along with vehicles transferred to other activities within a bureau, unless otherwise directed by the head of each bureau.

(b) Heads of Bureaus and Offices are authorized to make the determination contemplated by FPMR 101-38.305-3.

Subpart 114-38.4—Official Legend and Agency Identification

§ 114-38.402 Agency Identification.

(a) Department of the Interior and bureau or office identification shall be displayed on motor vehicles, trailers and motorcycles in conformance with 41 CFR 101-38.4 and 101-38.4903. Official bureau/office decals may be displayed on GSA or Interior owned motor vehicles, subject to the following limitations.

(1) Only the official "Seal" of the bureau/office will be installed.

(2) Decals containing slogans, advertising messages or identification of any bureau/office subunits or activities are not authorized.

(3) Decals will be elastomeric pigmented film-type and will be installed only under the official identification legend.

(4) The cost of installation and removal or vehicle restoration as may be required, will be at the expense of the appropriate bureau/office.

(5) The use of decals will not exclude a motor vehicle from any vehicle rotation program.

(b) Requests for deviation from this regulation shall be submitted to the Director, Office of Acquisition and Property Management.

(5 U.S.C. 301 and 40 U.S.C. 486(c))

[43 FR 48640, Oct. 19, 1978]

Subpart 114-38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

§ 114-38.605 Additional exemptions.

(a) Requests made pursuant to FPMR 101-38.605 for exemption from the requirement for displaying U.S. Government tags and other identification on motor vehicles shall be submitted to the Director, Office of Acquisition and Property Management, in duplicate. Each such request shall describe the vehicle for which exemption is sought, the nature of the work on which it is used, and include a certification to the effect that conspicuous identification would interfere with such use.

(b) The Director, Office of Acquisition and Property Management shall be notified promptly when:

(1) The need for a previously authorized exemption no longer exists.

(2) An exempted vehicle is rotated to other work not requiring continued exemption, or

(3) An exempted vehicle is replaced by another vehicle, in which case the notification shall include a description of the replacement vehicles.

(c) Copies of certifications and cancellation notices required to be furnished the General Services Administration pursuant to § 101-38.605 of this title will be transmitted to GSA by the Director, Office of Acquisition and Property Management.

[39 FR 12989, Apr. 10, 1974]

§ 114-38.606 Approval of tag requests for exempted vehicles in the District of Columbia.

(a) The following officials are authorized to approve requests for regular District of Columbia tags for exempted vehicles regularly based in the District of Columbia:

(1) Director, Office of Acquisition and Property Management.

(2) Chief, Division of Property Management, Office of Acquisition and Property Management.

(b) Requests for District of Columbia tags (renewal requests or otherwise) to be used on vehicles exempted from carrying U.S. Government tags pursuant to FPMR 101-38.602 through 101-38.605 shall be submitted to the Director, Office of Acquisition and Property Management for signature and transmittal to the District of Columbia Department of Motor Vehicles. Special forms for requesting District of Columbia tags are available from the District of Columbia Department of Motor Vehicles.

[39 FR 12989, Apr. 10, 1974]

§ 114-38.607 Report of exempted motor vehicles.

Periodic reports are not required. However, the head of each bureau and office is responsible for establishing procedures to ensure that current records are maintained for all vehicles exempted from the requirement for display of official identification. Upon request, each bureau and office will submit a report showing the total number of vehicles exempted pursuant to FPMR 101-38.605 and 101-38.606.

[40 FR 30483, July 21, 1975]

Subpart 114-38.7—Transfer of Title to Government-Owned Motor Vehicles

§ 114-38.701 Methods of transfer.

Additional guidelines relating to execution of Standard Forms 97 and 97A Certificate of Release of a Motor Vehicle, are contained in FPMR 101-45.303-3 and IPMR 114-45.303-3(b).

Subpart 114-38.9—Motor Vehicle Replacement Standards

§ 114-38.901 Applicability.

It is the policy of the Department of the Interior to continue in service vehicles which meet prescribed replacement standards, but which are in usable and workable condition, provided that:

(a) A continued program need exists for the vehicle,

(b) The vehicle can be operated safely and dependably without excessive repair and maintenance costs. Normally, when any single repair job exceeds the estimated current market value of a vehicle, consideration should be given to replacement in lieu of repair and retention,

(c) Repair parts are readily obtainable, and

(d) Retention will not substantially reduce the trade-in value of the vehicle.

[35 FR 290, Jan. 8, 1970, as amended at 41 FR 24124, June 15, 1976]

§ 114-38.908 Exception.

The certification contemplated by FPMR 101-38.908 may be executed by the head of each Bureau and Office or his designee(s). Findings supporting such certification should be made a part of the procurement or disposal records.

Subpart 114-38.10—Preventive Maintenance of Motor Vehicles

§ 114-38.1002 Agency requirements.

The head of each bureau and office is responsible for insuring the establishment of preventive maintenance programs for motor vehicles in compliance with FPMR 101-38.10.

[36 FR 20293, Oct. 20, 1971]

§ 114-38.1003 Guidelines.

Each preventive maintenance program shall be designed to detect and correct mechanical deficiencies while in the minor stage, and shall include requirements for regularly scheduled safety checks, lubrication, and mechanical inspections of the vehicles. The frequency of the preventive maintenance will depend upon the type of vehicle, the manufacturer's recommended service, and the severity of use.

[36 FR 20293, Oct. 20, 1971]

Subpart 114-38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

§ 114-38.1200 General.

The Defense Fuel Supply Center publishes a handbook entitled "Government Vehicle Operators: Your Guide to Service Stations for Gasoline, Oil and Lubrication" (DFSC H 4280.1). This handbook lists the firms participating in the National Credit Card Program. It also provides an explanation of authorized services and procedures for use of the U.S. Government National Credit Card (Standard Form 149), and should be made available to operators of Government vehicles.

[41 FR 54487, Dec. 14, 1976]

§ 114-38.1201 Billing code.

(a) The first three digits of the national credit card billing code shall always be 000 for any Department of the Interior activity.

(b) The fourth digit's use is at the option of the head of the bureau or office.

(c) The fifth and sixth digits shall be "14", the Department's agency code.

(d) The following blocks of numbers are assigned to bureaus and offices for use as the seventh, eighth, and ninth digits:

Southwestern Power Administration: 000 thru 009.
Bonneville Power Administration: 010 thru 019.
Geological Survey: 020 thru 029; 675 thru 699; 925 thru 964.
Southeastern Power Administration: 030 thru 039.
Fish & Wildlife Service: 040 thru 059; 100 thru 199; 460 through 489.
Bureau of Mines: 060 thru 099.
Bureau of Reclamation: 200 thru 459.
Reserved: 490 thru 499.
Alaska Power Administration: 700 thru 704.
Bureau of Indian Affairs: 500 thru 549; 705 to 784; 865 thru 914.
National Park Service: 550 thru 569; 610 thru 674; 965 thru 999.
Bureau of Land Management: 570 thru 599; 800 thru 864.
Office of the Secretary: 600 thru 609.
Office of Aircraft Services: 785 thru 799.
Mining Enforcement and Safety Administration: 915 thru 924.

(e) The tenth digit cannot be used for any purpose other than validation.

[41 FR 26572, June 28, 1976, as amended at 41 FR 54487, Dec. 14, 1976]

§ 114-38.1202 Administrative control of credit cards.

The head of each bureau and office shall establish administrative control procedures in compliance with FPMR 101-38.1202. When a credit card is lost or stolen, the following additional actions shall be taken to minimize the opportunity for unauthorized use:

(a) Notify the paying office to be on the alert for bills charged to the lost or stolen card; and

(b) Notify local service stations that the lost or stolen card is not to be honored.

[41 FR 26572, June 28, 1976]

Subpart 114-38.50—Official Use of Motor Vehicles

SOURCE: 41 FR 24587, June 17, 1976, unless otherwise noted.

§ 114-38.5000 Scope of subpart.

This subpart establishes policies and procedures implementing the requirement that Government motor vehicles are to be used only for official purposes.

§ 114-38.5001 Responsibility.

The head of each bureau and office is responsible for establishing procedures to:

(a) Ensure compliance with this subpart;

(b) Ensure that all officials are fully informed about the policies established in this subpart;

(c) Ensure that all employees are aware of the limitations on use of Government motor vehicles; and

(d) Ensure that employees of grantees, contractors, and subcontractors authorized to use Government motor vehicles use such vehicles solely in the performance of the work authorized under such Government grants, contracts, and subcontracts, and that:

(1) Grantees, contractors, and subcontractors establish and enforce suitable penalties for their employees who willfully use or authorize the use of Government motor vehicles for other than official purposes, and

(2) Appropriate provision is made for the assumption by the grantee, contractor, or subcontractor of any cost or expense incident to any use not related to the performance of the grant or contract, such assumption of cost or expense to be without the right of reimbursement from the Government.

§ 114-38.5002 "Government motor vehicle" defined.

As used in this subpart, the term "Government motor vehicle" means any motor vehicle acquired for official purposes which was:

(a) Acquired by purchase, transfer, or loan.

(b) Obtained from an interagency motor pool.

(c) Leased or rented from a commercial source.

§ 114-38.5003 Authorized uses.

The accomplishment of official business is the sole reason for acquiring and operating a Government motor vehicle. It is for official purposes when a Government motor vehicle is:

(a) Used to carry out authorized programs, including program work under cooperative agreements or other contractual arrangements made pursuant to authority vested in the Department (see 41 CFR 101-25.100).

(b) Used to render assistance in major disasters or emergency situations as provided in 905 DM 1.

(c) Used by an officer or employee to travel between his/her residence and place of employment when such use is authorized as provided in 31 U.S.C. 638a and in accordance with the procedures set forth in 114-38.5005.

(d) Used by an officer or employee in travel status to:

(1) Drive to his/her residence when it is in the interest of the Government that the official travel start from there rather than from the place of employment. (The vehicle may also be stored at the residence at the conclusion of the trip when such storage is in the interest of the Government).

(2) Go between his/her temporary lodging, place of business, and other permissible places set forth in paragraph 1-1-2.6.a of the Federal Travel Regulations (FPMR 101-7).

§ 114-38.5004 Transportation of nonofficial passengers.

(a) The official purpose of the use of a motor vehicle is not voided or changed by the incidental transportation of private property or a person traveling for personal convenience provided the space is available and not needed in connection with the accomplishment of official business. However, the transportation of non-official passengers creates the possibility of tort claims and public criticism and shall not be encouraged. The head of each bureau and office is responsible for establishing policies about the use of such incidental transportation which:

(1) Must be without expense to the Government;

(2) Must not result in the delay of Government business or the taking of circuitous routes; and

(3) Must not involve private profit-seeking activities or commercial dealings other than consumer purchases.

(b) Picking up hitchhikers and giving rides to strangers are both prohibited when operating either a Government motor vehicle or a privately-owned vehicle on official business.

§ 114-38.5005 Authorizing the use of a Government motor vehicle between an employee's residence and place of employment.

As provided in 31 U.S.C. 638a, the term "official purposes" does not include the transportation of officers and employees between their domiciles and places of employment except in cases of:

(a) Medical officers on out-patient service, and

(b) Officers and employees engaged in field work the character of whose duties makes such transportation necessary.

(1) Except as provided in § 114-38.5003(d), prior authorization is required in all instances where the nature of field duty requires the use of a Government motor vehicle between an employee's residence and place of employment. Authority to approve such use is set forth in 205 DM 9.

(2) Initial requests for authorization shall contain, as a minimum, the following information:

(i) Name and title of employee;

(ii) Location of both residence and place of employment;

(iii) Nature of employees' duties or other justifying circumstances;

(iv) Alternate arrangements considered;

(v) Type of vehicle;

(vi) Distance involved;

(vii) Period of need (1-year limit).

(3) Requests for renewal of authorizations shall contain the same information as initial requests.

(4) Approvals must be in writing, are not transferable, and shall be limited to the period of actual need not to exceed one year.

(5) Authorization shall be cancelled in writing when the need no longer exists or the employee's status changes.

§ 114-38.5006 Penalties for unauthorized use.

As provided in 31 U.S.C. 638a(c)(2), any officer or employee of the Government who willfully uses or authorizes the use of any Government-owned passenger motor vehicle, or of any passenger motor vehicle leased by the Government, for other than official purposes or otherwise violates the provisions of that statute shall be suspended from duty by the head of the Department concerned, without compensation, for not less than one month, and shall be suspended for a longer period or summarily removed from office if circumstances warrant.

Subpart 114-38.51—Motor Vehicle Assignment Standards

Source: 41 FR 15412, Apr. 13, 1976, unless otherwise noted.

§ 114-38.5100 Scope of subpart.

This regulation establishes standards and procedures governing the assignment and use of motor vehicles acquired by any means for official purposes.

§ 114-38.5101 Purpose.

The purpose of this regulation is to provide criteria and guidelines for use in monitoring the assignment and use of motor vehicles to ensure that the number of vehicles operated is kept to the minimum necessary to provide economical and efficient transportation service for authorized programs.

§ 114-38.5102 Responsibility.

The head of each Bureau and Office is responsible for establishing a motor vehicle management program which will include, as a minimum:

(a) A system for the allocation of motor vehicles based upon the requirements of authorized program activities;

(b) The establishment and maintenance of such records as may be necessary to provide management with sufficient data on an annual basis to determine that all vehicles meet or exceed prescribed utilization objectives.

(c) An annual analysis of the above data by management and appropriate program personnel at the regional, state, or area level to determine if:

(1) Additional vehicles are required;

(2) Fewer vehicles are required, and if so, what disposal action is needed (reassignment, return to motor pool, declaration as excess, etc.);

(3) There may be possible benefits to the program from reassignment or rotation of motor vehicles;

(4) There are concentrations of vehicles where a pooling concept can be used to the most practical extent;

(5) All or part of the requirements can more economically be provided through the use of intermittent rentals or privately-owned vehicles.

§ 114-38.5103 Determination of requirements.

In determining the requirements for motor vehicles, consideration shall be given to the following:

(a) The types of vehicles having the minimum capacity/performance needed to meet the operational requirements of a particular program;

(b) The number of each type of vehicle needed to accomplish the program objective;

(c) The extent of intended use, i.e., the cargo or number of passengers to be transported, the frequency and types of trips, etc. Dual purpose vehicles capable of hauling both personnel and light cargo shall be used whenever appropriate to avoid the need for two vehicles when one can serve both purposes;

(d) The reassignment of existing vehicles to meet the requirement;

(e) The feasibility of obtaining the required motor vehicle support from the Interagency Motor Pool System;

(f) Lease or rental from commercial sources, especially in those instances where the requirement is for a period of three months or less; and

(g) The feasibility and economy of using a privately-owned vehicle.

§ 114-38.5104 Limitations.

(a) A motor vehicle will not be assigned for the exclusive use of one individual unless such assignment is required by the nature of the individual's responsibilities or by the frequency, urgency, and extent of the daily requirements for motor vehicle services.

(b) Truck-type vehicles will not be acquired for passenger use merely to avoid the limitations on passenger-carrying vehicles.

(c) Light trucks (capacity of 1-ton or less) shall not be acquired for addition to a fleet unless there is a known requirement for a period of at least eighteen months. For heavier trucks, the known requirement must exist for a period of at least 24 months.

(d) Motor vehicles will be acquired from excess sources only when the costs of such acquisitions (reimbursement, transportation, and repairs/rehabilitation needed to ensure safe operation) do not exceed the one-time repair cost formula set forth below.

(e) Except in those instances where replacement is administratively determined to be impractical, a motor vehicle should be replaced in lieu of being repaired when the cost of repairs is expected to exceed the economic value of the vehicle. The following table is established as a guide to be used in determining this one-time repair limit on the basis of age:

Age of vehicle (in years)	One-time repair limit in percentage of replacement cost
1	50
2	45
3	40
4	35
5	30
6	25
7	18
8	11
9	5

§ 114-38.5105 Allocation and utilization criteria.

The following guidelines are established to fulfill the need for standards for use in evaluating the need for motor vehicles to ensure compliance with the policy that motor vehicle inventories should be maintained at a minimum level.

(a) Due to variations in program requirements, a vehicle quota or table of allowance is not always applicable. However, vehicle managers should always consider the ratio of sedans, station wagons, and light trucks to the number of employees. Whenever this exceeds the ratio of one per three employees at any location, the manager should review the circumstances and determine any corrective actions that should be taken.

(b) Annual mileage is a utilization indicator and, while not always appropriate, it is easily measured and understood. The acquisition, allocation, or retention of any general purpose vehicle will be subject to management review at the regional, state, or area level when the annual mileage is less than the following minimums:

Type of vehicle	Minimum annual mileage
Sedan and station wagon	6,000
Bus	2,000
Truck, 1-ton and less, 4 by 2	4,000
Truck, 1-ton and less, 4 by 4	3,000
Truck, 1½ to 2½ tons	3,000
Truck, all other	2,000

Subpart 114-38.52—Utilization and Maintenance of Motor Vehicles

§ 114-38.5201 Utilization.

Maximum effective utilization of motor vehicles depends upon careful selection of the types and number of units, effective maintenance, and efficient operation. The following management practices shall be followed to the maximum extent practicable:

(a) Rotate high mileage vehicles with those on low mileage assignments,

(b) Limit assignments of vehicles for the restricted use of individuals to the minimum necessary to efficiently carry out the work,

(c) Assign motor vehicles to motor vehicle pools, thus making them available for the general use of all employees on a dispatch basis and,

(d) Periodically evaluate program needs to identify vehicles on hand in excess of actual requirements, and promptly dispose of any so identified through available, excess, or surplus channels.

[36 FR 20294, Oct. 20, 1971]

§ 114-38.5202 Maintenance.

The head of each bureau and office is responsible for ensuring the establishment of motor vehicles maintenance programs which will include:

(a) Procedures to insure that all motor vehicles are equipped with safety equipment and accessories in compliance with State, county, and municipal laws and regulations in force in the areas in which the vehicles are to be operated;

(b) The use of approved technical information such as manufacturers' manuals and service bulletins;

(c) A preventive maintenance program as required by FPMR 101-38.10 and IPMR 114-38.10.

[36 FR 20294, Oct. 20, 1971]

§ 114-38.5203 Use of motor vehicles by the Postal Service.

(a) *Authorization.* Section 411 of the Postal Reorganization Act provides that executive agencies are authorized to furnish property and services to the Postal Service under such terms and conditions, including reimbursability, as the Postal Service and the agency concerned deem appropriate. Executive Order 11672 establishes a requirement for reimbursement at fair market value of such property or at a rate based on appropriate commercial charges for comparable property, as agreed to by the agency head and the Postmaster General, unless the Director of the Office of Management and Budget finds that a different basis of valuation is more equitable or better serves the public interest.

(b) *Implementation.* Pursuant to the authority found in 39 U.S.C. 411, Bureaus and Offices may make motor vehicles available to the Postal Service for temporary use, particularly during the Christmas season. The rental rate to be charged shall be the same as is charged by the General Services Administration for similar vehicles available from the interagency motor pool serving the geographical area involved, with appropriate allowances for any fuel and oil furnished by the Postal Service.

[37 FR 19818, Sept. 22, 1972]

Subpart 11-38.53—Aircraft [Reserved]

Subpart 114-38.54—Defense of Suits Against Federal Employees

SOURCE: 38 FR 31835, Nov. 19, 1973, unless otherwise noted.

§ 114-38.5400 Authority.

The Act of September 21, 1961, 75 Stat. 539, 28 U.S.C. 2679(b)(e) (1970), commonly known as the Government Drivers Act, amended the Federal Tort Claims Act to provide that any civil action or proceeding brought against any employee of the Government, or his estate, for damage to property or for personal injury, including death, resulting from the operation of any motor vehicle (Government-owned or leased, or privately owned) while the employee was acting within the scope of this employment will be deemed to be an action or proceeding against the United States and will be defended by the Attorney General. In practical terms this means that the Department of Justice and the local United States Attorney will defend the civil action or proceeding brought in any State or Federal Court against the Federal employee (or his estate) whose act or omission gave rise to the claim.

§ 114-38.5401 Determination by the Department of Justice.

The Department of Justice is the agency charged with making the determination of whether the Federal employee involved in such a suit was acting within the scope of his employment at the time the accident occurred. In order to enable the Department of Justice to make such determination, the Bureau or Office of this Department employing the person involved in the accident must submit to the Solicitor's Office Form 26 for transmittal to the Department of Justice which contains detailed information concerning the question whether or not the employee was acting within the scope of his employment at the time of the accident out of which the suit arose.

§ 114-38.5402 Purpose of subpart.

The purpose of this chapter is to provide a cross-reference to 451 DM 4 which prescribes procedures for the execution and submission of the necessary papers and reports to the Department of Justice and to the appropriate United States Attorney.

Subpart 114-38.55—Watercraft

SOURCE: 42 FR 55894, Oct. 20, 1977, unless otherwise noted.

§ 114-38.5500 Scope of subpart.

This subpart provides policies and guidelines pertaining to the acquisition, management, and safe operation of watercraft.

§ 114-38.5501 Definition.

"Watercraft" means boats and ships collectively, including airboats, sailboats, and every description of watercraft except seaplanes, which are:

(a) Used, or capable to being used, as a means of transportation on water, and

(b) propelled by machinery whether or not such machinery is the principle source of propulsion.

§ 114-38.5502 Basic policy.

It is Departmental policy that the acquisition and operation of watercraft shall, as a minimum, be in compliance with U.S. Coast Guard Boating Safety Regulations and Standards (33 CFR Subchapter S and 46 CFR Part 25). Some of these are included or referenced herein for the purpose of ensuring that personnel responsible for watercraft are aware of these requirements. In the event of any conflict, the more stringent requirement shall apply.

§ 114-38.5503 Official use.

No officer or employee of the Federal Government shall use, or authorize the use of, any Government-owned or leased watercraft for other than official purposes as defined in Subpart 114-38.50.

§ 114-38.5504 Responsibility.

The head of each bureau and office having watercraft is responsible for establishing:

(a) Operating programs and procedures to ensure compliance with this subpart;

(b) Requirements for records and reports needed for management purposes.

§ 114-38.5505 Requirements for new watercraft.

When the purchase of new watercraft is contemplated, the head of the bureau or office shall establish procedures that will ensure compliance with the following requirements:

(a) Custom-built watercraft in excess of 35 feet long: Specifications must be reviewed by a qualified marine architect.

(b) Watercraft 26 feet or more in length: Prior compliance with the provisions of Office of Management and Budget Circular No. A-76.

(c) Watercraft of less than 20 feet in length: Must meet U.S. Coast Guard flotation standards published in 33 CFR 183 (42 FR 20242) which shall be mandatory on manufacturers as of August 1, 1978 (must have sufficient buoyancy to float in an approximately level attitude when swamped, thus providing a platform from which the occupant(s) can be rescued).

(d) Any new watercraft: Must meet or exceed U.S. Coast Guard Boating Safety Regulations for comparable watercraft. (Watercraft subject to U.S. Coast Guard standards will have a manufacturer's certification label.)

(e) Engine horsepower rating: Not to be in excess of that recommended by the hull manufacturer and shown on the capacity marking label.

(f) Environmental regulations concerning the discharge of waste materials into navigable waters: Among other things, these regulations prohibit the use of marine toilets with overboard discharge.

§ 114-38.5506 Modification of other watercraft.

All existing watercraft shall be modified to meet the requirements for new watercraft except in those instances where such modification is neither practicable nor economically feasible.

§ 114-38.5507 Identification requirements.

(a) Bureau or office identification shall be conspicuously displayed on all watercraft except those used in connection with law enforcement undercover work.

(b) Registered watercraft shall have the registration number displayed on each side of the bow in accordance with U.S. Coast Guard Boating Safety Regulations.

(c) All watercraft shall be marked to indicate the maximum horsepower allowed for propulsion, the maximum permissible number of occupants, and any other standards for safe loading that may be required to ensure safe operation.

(d) Emergency flotation information shall be prominently displayed on each watercraft when it is determined that such information will serve a useful purpose.

§ 114-38.5508 Training.

(a) The head of each bureau and office having watercraft shall require that all employees who operate or work in watercraft receive sufficient first aid instruction to ensure the availability of artificial respiration in an emergency. Permanent employees shall be required to take the Standard Red Cross First Aid Course or its equivalent.

(b) All employees who operate watercraft shall be required to participate as appropriate, in one or more of the following courses:

(1) U.S. Coast Guard Auxiliary courses in boating safety and seamanship.

(2) United States Power Squadrons (USPS) Boating Course.

(3) Water safety courses offered by local chapters of the American National Red Cross.

(4) State boating safety education programs as available.

(5) The "Skipper's Course." a programmed learning text ($1.50 by mail. Order from the Government Printing Office, P.O. Box 1821, Washington, D.C. 20013, or from the Consumer Product Information Center, Pueblo, CO 81009.)

(6) Other bureau-approved courses in boating safety and seamanship.

(c) Employees classified as boat operators should be required to take the necessary courses and obtain appropriate U.S.C.G. licenses.

§ 114-38.5509 Associated equipment requirements.

(a) *Personal flotating devices.* (1) Each watercraft shall have aboard and readily available for the operator and each occupant a serviceable Personal Flotation Device (PFD) of suitable size and at least equivalent to Performance Type I, II, or III Personal Flotation Device as specifed in U.S. Coast Guard Boating Safety Regulations (33 CFR 175) (i.e., designed to keep a person afloat in a vertical or slightly backward position and having at least 15.5 pounds of buoyancy).

(2) The operator and occupant(s) of any watercraft less than 26 feet in length shall wear the above PFD when water or weather conditions are such that there is a possibility of an accident or of a person being thrown over the side.

(3) Each watercraft 16 feet or more in length shall also be equipped with at least one Type IV (throwable) Personal Flotation Device.

(b) *Distress signaling devices.* Each watercraft shall have aboard distress signaling devices effective for all weather conditions and in compliance with any regulations issued by the U.S. Coast Guard for that type watercraft.

(c) *Bailing devices and bilge pumps.* All watercraft shall carry suitable and readily available bailing devices, and watercraft of 26 feet or more in length should be equipped with bilge pumps.

(d) *Running lights.* Each watercraft operated during hours of darkness shall display lights meeting U.S. Coast Guard requirements for "Lights required on boats underway between sunset and sunrise". For watercraft operated on waters governed by the Inland. Great Lakes, or Western Rivers Rules of the Road, these requirements are in 46 CFR 27.05. For watercraft operated in international waters, these requirements are in the 1972 Collision Regulations, 33 CFR Subchapter DD (42 FR 17111)

(e) *Radio.* All watercraft operated on open waters should have ship to shore radio communications capability. For carriage and authorization of such radio equipment, refer to Part 313 of the Departmental Manual and the related Radio Communications Handbook.

(f) *Navigational aids.* Any watercraft operated outside the sight of land shall be equipped with navigational aids suitable to the mission.

(g) *Dead-man's switch.* Watercraft frequently used for solo operation should, wherever possible, be equipped with a device, switch, or line which would reduce the engine speed to an idle if the operator should lose control.

(h) *Anchor and anchor line.* In all waters where anchoring is reasonably possible, all watercraft (except those capable of being safely beached) shall be equipped with an anchor and line adequate to securely anchor the watercraft.

(i) *First aid kits.* Each watercraft shall carry a readily identifiable and accessible first aid kit containing at least the same items listed by the U.S. Coast Guard in 46 CFR 16.041-4.

(j) *Compliance checklist.* When appropriate to ensure compliance with State and local regulations, each watercraft should have a compliance checklist for each State in which that watercraft shall be operated. Any such checklist should be coordinated with, or developed by, safety personnel and shall include all required accessories and equipment such as anchor lights, running lights, and sound warning devices.

§ 114-38.5510 Fire controls.

(a) Every inboard gasoline engine in a watercraft shall be equipped with a means of backfire flame control acceptable to the U.S. Coast Guard on the basis of 46 CFR 25.35.

(b) Each gasoline powered inboard and inboard/outdrive watercraft shall have ventilation systems meeting U.S. Coast Guard regulations (46 CFR 25).

(c) Each watercraft shall carry, as a minimum, the number and type of fire extinguishers required by U.S. Coast Guard regulations (46 CFR 25) for that particular type and size of craft, and such fire extinguishers shall be maintained and serviced in accordance with the procedures set forth in Occupational Safety and Health Administration Standard 29 CFR 1910.157.

§ 114-38.5511 Inspection requirements.

(a) Each watercraft shall be thoroughly inspected at least once annually to determine that the watercraft is seaworthy and being maintained in a safe operating condition. Inspections shall be more frequent in those situations where unusual conditions such as heat, humidity, or ice may have an effect on the hull or engine. Each inspection shall be made by qualified personnel, and U.S. Coast Guard inspection services shall be utilized to the extent they are available.

(b) Each inspection shall include an examination of Personal Flotation Devices to ensure they are being properly treated and maintained in a serviceable condition.

(c) All deficiencies affecting seaworthiness or safety shall be corrected before the watercraft is returned to service.

§ 114-38.5512 Operating requirements.

(a) Watercraft shall be operated at all times with safety as a primary requirement, and the employee in charge of any watercraft is responsible for:

(1) Operating the watercraft in a safe manner with due regard to the safety of its crew, passengers and cargo.

(2) Compliance with the applicable laws and regulations, including those relating to use for official purposes only;

(3) Reporting all accidents and incidents involving watercraft on Form DI-134, Report of Accident/Incident, and using Coast Guard Form CG-3865, Boating Accident Report, to report any accident which results in the loss of life, injury causing incapacitation in excess of 72 hours, or property damage in excess of $100.

(b) The solo operator of any watercraft shall wear a Personal Flotation Device.

(c) Airboat operators and occupants shall wear some type of hearing protection.

(d) The employee in charge of any watercraft with a crew of three or more (including the captain) shall:

(1) Hold safety meetings at least once each month during the operating season.

(2) Conduct fire and abandon ship drills at least once each month during the operating season, and record each drill in the ship's log.

(3) Post, in a conspicuous place, a "Station Bill" covering fire drills, abandon ship drills, man overboard drills, and other emergency procedures.

PART 114-39—INTERAGENCY MOTOR VEHICLE POOLS

Subpart 114-39.4—Establishment, Modification, and Discontinuance of Motor Pools

Sec.

114-39.404 Discontinuance or curtailment of service.
114-39.404-3 Problems involving service or cost.
114-39.404-4 Agency requests to withdraw participation.

Subpart 114-39.5—Services

114-39.503 Means of obtaining service.
114-39.503-1 General.
114-39.503-50 Estimating requirements.
114-39.503-51 Utilization review.

Subpart 114-39.6—Official Use of Government Motor Vehicles and Related Motor Pool Services

114-39.601 General requirements.

Sec.
114-39.601-50 Passenger automobiles.
114-39.602 Authorized use.
114-39.602-1 Government vehicles.

Subpart 114-39.8—Accidents and Claims

114-39.801 General.
114-39.802 Reporting of accidents.
114-39.804 Investigation.
114-39.804-1 Investigation procedure.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 5 U.S.C. 301, 40 U.S.C. 486(c).

SOURCE: 36 FR 3118, Feb. 18, 1971, unless otherwise noted.

Subpart 114-39.4—Establishment, Modification, and Discontinuance of Motor Pools

§ 114-39.404 Discontinuance or curtailment of service.

§ 114-39.404-3 Problems involving service or cost.

In any instance where problems involving motor pool service or cost arise, the affected bureau or office should bring the matter to the attention of the Chief of the motor pool providing the vehicles for resolution. In the event a satisfactory solution does not result, full particulars should be forwarded to the Director, Office of Acquisition and Property Management for consideration and possible referral to the Administrator, General Services Administration.

[40 FR 5526, Feb. 6, 1975]

§ 114-39.404-4 Agency requests to withdraw participation.

Should circumstances arise at a given interagency motor pool location which tend to justify discontinuance or curtailment of participation in such motor pool by an Interior activity, the participating Bureau or Office should forward complete details concerning these circumstances to the Director, Office of Acquisition and Property Management for consideration and possible referral to the Administrator, General Services Administration.

[40 FR 5526, Feb. 6, 1975]

Subpart 114-39.5—Services

SOURCE: 41 FR 5283, Feb. 5, 1976, unless otherwise noted.

§ 114-39.503 Means of obtaining service.

§ 114-39.503-1 General.

The head of each bureau and office shall establish administrative procedures to coordinate the acquisition of GSA motor pool vehicles needed for indefinite and seasonal requirements. Such procedures shall provide, as a minimum, an information system that can be used to identify both existing and projected total vehicle requirements. Designation of responsibility for such coordination should not be below that level of management responsible for budgetary control and concerned with the most economical use of vehicles The number of contacts with each servicing GSA motor pool shall be kept to a minimum, with the optimum situation being a regional or comparable office serving as the one point of contact for providing the necessary liaison with each GSA motor pool serving that geographical area. Each coordinating office shall maintain a current file of all officials and employees who are authorized to request service from GSA motor pools.

§ 114-39.503-50 Estimating requirements.

(a) All requests for indefinite and seasonal assignments shall be in writing, and shall specify the types of vehicles needed for efficient operation. Uncertainties should be indicated in the advance estimate by showing both the maximum and minimum number of vehicles which the motor pool may be expected to provide. Subsequently, the motor pool should be given immediate notification of any program changes which will affect the number of GSA motor pool vehicles to be used.

(b) In those instances where authority to acquire GSA motor pool vehicles has been delegated to other than a coordinating office, copies of assignment requests shall be immediately forwarded to the coordinating office. Similar procedures should be followed for the termination of vehicle assignments.

§ 114-39.503-51 Utilization review.

Each coordinating office will conduct periodic utilization reviews of GSA motor pool vehicle assignments and take corrective action as needed to ensure that the number of vehicles is not in excess of actual requirements.

Subpart 114-39.6—Official Use of Government Motor Vehicles and Related Motor Pool Services

§ 114-39.601 General requirements.

(a) *Leasing of motor vehicles.* The head of each bureau and office is designated as responsible for the certifications required by FPMR 101-39.601(a), and he may redelegate certifying authority to the organizational level best qualified to determine when larger-than-compact vehicles are essential. Such redelegations shall be in writing and kept available for audits, surveys, and management reviews.

(1) New requirements for leased vehicles on a nationwide basis shall be submitted to the Director, Office of Acquisition and Property Management, for Departmental consolidation and transmittal to the General Services Administration.

[42 FR 6368, Feb. 2, 1977]

§ 114-39.601-50 Passenger automobiles.

Sedans and station wagons leased for a period of 60 continuous days or more are to be included in each forecast of total passenger automobile acquisition requirements and each computation of fleet average fuel economy.

[42 FR 6369, Feb. 2, 1977]

§ 114-39.602 Authorized use.

[40 FR 5526, Feb. 6, 1975]

§ 114-39.602-1 Government vehicles.

(a) Subpart 114-38.50, Official Use of Motor Vehicles, prescribes Departmental policies and procedures governing the use of Government vehicles.

(b) The heads of bureaus and offices are responsible for compliance with FPMR 101-39.602-1(b).

[40 FR 5526, Feb. 6, 1975]

Subpart 114-39.8—Accidents and Claims

§ 114-39.801 General.

The reporting procedures established by FPMR 101-39.8 are in addition to the Departmental reporting requirements in 485 DM 4 (DI-134) and 451 DM 4 (Solicitor's Office Form 26).

[41 FR 24124, June 15, 1976]

§ 114-39.802 Reporting of accidents.

Where it is infeasible for the operator of a motor pool system vehicle involved in an accident to notify personally the Chief of the GSA motor pool and other authorities, he may discharge this responsibility through his supervisor or other designated official. Bureaus and offices electing to permit this arrangement must insure that its instructions are such that in any given accident both the supervisor and the operator understand clearly which one of them will furnish the required notification.

§ 114-39.804 Investigation.

§ 114-39.804-1 Investigation procedure.

(a) The supporting data submitted with Standard Form 91 shall include any reports of investigation which the using bureau or office itself may require through its own regulations.

(b) Departmental investigating procedures require that all motor vehicle accidents be investigated without regard to the $250 criteria established by FPMR 101-39.804-1(b).

PART 114-40—TRANSPORTATION AND TRAFFIC MANAGEMENT

Subpart 114-40.3—Freight Rates, Routes, and Services

§ 114-40.307 Tonnage reports.

In fulfilling the reporting requirements of 41 CFR 101-40.307, it is recognized that outbound shipments of 100 short tons or more will occur infrequently. Accordingly, a monthly report will be required only for the months in which such a shipment is made. This report, when required, shall be submitted in the form of Appendix I, in duplicate, to reach the Office of Acquisition and Property Management by not later than the 15th of the month following the month reported. Negative reports are not required.

(Sec. 205(c), 63 Stat. 390 (5 U.S.C. 301, 40 U.S.C. 486(c)))

[40 FR 5526, Feb. 6, 1975]

PART 114-41—AUDIT OF TRANSPORTATION PAYMENTS

Subpart 114-41.3—Freight Transportation Services Furnished for the Account of the United States

Sec.
114-41.304 Exception to the use of U.S. Government bills of lading.
114-41.304-2 Limited authority to use commercial forms and procedures.

AUTHORITY: 5 U.S.C. 301, sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 114-41.3—Freight Transportation Services Furnished for the Account of the United States

§ 114-41.304 Exception to the use of U.S. Government bills of lading.

[40 FR 52847, Nov. 13, 1975]

§ 114-41.304-2 Limited authority to use commercial forms and procedures.

(a) As provided in 205 DM 9, the head of each bureau and office may authorize the use of commercial forms for small domestic shipments. FPMR Temporary Regulation G-23 and GSA Bulletin FPMR G-120 set forth the procedures to be followed in connection with such use.

[41 FR 24125, June 15, 1976]

PART 114-42—PROPERTY REHABILITATION SERVICES AND FACILITIES

Subpart 114-42.2 Property Rehabilitation Services Performed by Federal Facilities

Sec.
114-42.203 Notifications.

Subpart 114-42.3—Recovery of Precious Metals and Critical Materials

Sec.
114-42.301 General.
114-42.301-1 Guidelines for conducting intra-agency surveys.
114-42.301-2 Reporting to GSA.
114-42.302 Recovery of silver from used hypo solution and scrap film.
114-42.303 Recovery and utilization of precious metals through the Defense Precious Metals Recovery Program.
114-42.303-1 Recovery of precious metals through the Defense Property Disposal Precious Metals Recovery Office (DPDPMRO).
114-42.303-2 Utilization of DOD-recovered precious metals as Government-furnished material (GFM) in Federal procurements.

AUTHORITY: 5 U.S.C. 301 and sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 114-42.2—Property Rehabilitation Services Performed by Federal Facilities

§ 114-42.203 Notifications.

Should any Bureau or Office propose to establish or substantially expand existing facilities for the repair, maintenance, rehabilitation, or reclamation of personal property, the details of such proposal should be embodied in a letter, prepared for the signature of the Assistant Secretary—Policy, Budget and Administration and addressed to:

Administrator, General Services Administration (FW), Washington, D.C. 20406.

The letter should include, as a minimum, all of the information called for in FPMR 101-42.203(b).

[40 FR 33217, Aug. 7, 1975]

Subpart 114-42.3—Recovery of Precious Metals and Critical Materials

SOURCE: 40 FR 40517, Sept. 3, 1975, unless otherwise noted.

§ 114-42.301 General.

The head of each bureau and office is responsible for establishing and pursuing a program for recovery of precious metals and critical materials in accordance with the provisions of FPMR 101-42.3.

§ 114-42.301-1 Guidelines for conducting intra-agency surveys.

(a) An annual survey shall be conducted at each installation, facility, or activity that generates used hypo solution, scrap film, or other precious metal-bearing scrap, and which has no precious metal recovery program, to determine the economic feasibility of implementing recovery procedures. The results of the survey should be recorded in the format illustrated in FPMR 101-42.4901, and a copy forwarded to the Director, Office of Acquisition and Property Management.

(b) Each bureau and office having an existing or potential precious metal recovery program shall designate an individual to be responsible for coordinating the surveys, implementing recovery procedures, monitoring recovery programs, and submitting the consolidated annual report prescribed in § 114-42.301-2. A notice of such designation shall be submitted to the Director, Office of Acquisition and Property Management.

§ 114-42.301-2 Reporting to GSA.

Within 25 calendar days after the close of each fiscal year, and using the format illustrated in FPMR 101-42.4902, each bureau and office shall submit a consolidated annual report to the Office of Acquisition and Property Management for Departmental consolidation and submission to the General Services Administration.

§ 114-42.302 Recovery of silver from used hypo solution and scrap film.

The head of each bureau and office is responsible for establishing, maintaining, and pursuing a program for silver recovery from used hypo solution and scrap film in accordance with the procedures set forth in FPMR 101-42.302.

§ 114-42.303 Recovery and utilization of precious metals through the Defense Precious Metals Recovery Program.

§ 114-42.303-1 Recovery of precious metals through the Defense Property Disposal Precious Metals Recovery Office (DPDPMRO).

Each bureau and office generating precious metal-bearing scrap and having no disposal facility should establish procedures for reporting accumulations of such scrap to DPDPMRO, and for sending GSA a copy of each such report in accordance with FPMR 101-42.303-1.

§ 114-42.303-2 Utilization of DOD-recovered precious metals as Government-furnished material (GFM) in Federal procurements.

Prior to the procurement of any precious metal, consideration should be given to the acquisition of such material through the procedures set forth in FPMR 101-42.303-2.

PART 114-43—UTILIZATION OF PERSONAL PROPERTY

Sec.
114-43.000 Scope of part.
114-43.001 Definitions.
114-43.001-50 Available personal property.
114-43.001-51 Reportable personal property.
114-43.001-52 Nonreportable personal property.

Subpart 114-43.1—General Provisions

114-43.101 Surveys.
114-43.102 Reassignment of property within executive agencies.
114-43.102-50 Holding bureau utilization.
114-43.102-51 Screening nonreportable available property.
114-43.102-52 Screening reportable available property.
114-43.102-53 Documentation of transfers.

Subpart 114-43.3—Utilization of Excess

114-43.301 Federal Government procedure.
114-43.301-50 Economic considerations.
114-43.302 Agency responsibility.
114-43.306 Property not required to be reported.
114-43.311 Reporting requirements.
114-43.311-1 Reporting.
114-43.315 Transfers of excess property.
114-43.315-2 Information of availability.

Sec.
114-43.315-3 Fair value reimbursement.
114-43.315-5 Procedure for effecting transfers.
114-43.316 Contractor inventory.
114-43.317 Costs and proceeds.
114-43.317-1 Cost of care and handling.
114-43.319 Use of excess property on cost-reimbursement type contracts.
114-43.320 Use of excess property on grants.

Subpart 114-43.4—Utilization of Abandoned and Forfeited Personal Property

114-43.402 Forfeited or voluntarily abandoned property.
114-43.402-4 Retention by holding agency.

Subpart 114-43.47—Reports

114-43.4701 Performance reports.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 43 FR 11577, Mar. 20, 1978, unless otherwise noted.

§ 114-43.000 Scope of part.

The provisions of this part are applicable to all personal property except:

(a) Automatic data processing equipment and supplies, and

(b) Books, periodicals, other publications, and related material.

§ 114-43.001 Definitions.

§ 114-43.001-50 Available personal property.

"Available personal property" means any personal property that is no longer needed by the holding activity, and is available for use by other Interior activities.

§ 114-43.001-51 Reportable personal property.

"Reportable personal property" means any personal property that has been determined to be excess to the needs of the Department of the Interior and is required to be reported to the General Services Administration.

§ 114-43.001-52 Nonreportable personal property.

"Nonreportable personal property" means any personal property that has been determined to be excess to the needs of the Department of the Interior and is not required to be reported to the General Services Administration except for sale purposes.

Subpart 114-43.1—General Provisions

§ 114-43.101 Surveys.

The head of each Bureau and Office shall ensure that all personal property held by each Accountable Officer under his jurisdiction is continuously examined to determine that which is "available" and shall promptly facilitate the transfer of property so identified as provided in this part. Although the system which will best serve as a means of identifying unneeded property may vary between bureaus, or between offices within a bureau, it should include provisions for:

(a) Periodically reviewing stores and equipment records to identify items which may be on hand in excess of program requirements.

(b) Periodically reviewing and evaluating equipment utilization reports and physical inventories of nonexpandable property to identify idle or unneeded property.

§ 114-43.102 Reassignment of property within executive agencies.

Available personal property shall be screened against Department of the Interior needs in accordance with this section before it is determined to be excess. The authority to reassign or to transfer available personal property has been delegated to heads of bureaus and offices in 205 DM 9.

§ 114-43.102-50 Holding bureau utilization.

Each Bureau and Office holding available personal property (see definition in IPMR 114-43.001-50) shall ensure that its own offices are afforded an opportunity to utilize such property either prior to or simultaneously with circularization to other Bureaus and Offices of the Department.

§ 114-43.102-51 Screening nonreportable available property.

(a) Nonreportable available property should not be routinely circularized within the Department except in those instances where the holding office has reason to believe there may be general interest in the property. Instead, the holding office should make the availability of nonreportable property known to other Interior offices, and other Federal agencies in the area, to the extent the nature, amount, and condition of such property warrants. Often a telephone call to Federal agencies in the area may be all that is required to support a finding of excess and surplus.

(b) When no further Federal utilization is found for nonreportable personal property, a determination of surplus shall be made in writing and made a part of the disposal file. Surplus nonreportable property shall be processed for disposal in accordance with applicable provisions of FPMR 101-44 and 101-45.

§ 114-43.102-52 Screening reportable available property.

Reportable available personal property shall be circularized to other Interior offices within a reasonable transport distance unless its nature, condition, or location virtually precludes economical utilization by such offices. Copies of available personal property listings shall also be sent to other Interior offices in accordance with listings provided by the Office of Acquisition and Property Management. Property not utilized by other Interior activities shall then be determined to be excess to the needs of the Department of the Interior and promptly reported to the appropriate GSA regional office in accordance with FPMR 101-43.311. The excess determination should be evidenced in writing and made a part of the disposal file.

§ 114-43.102-53 Documentation of transfers.

Property disposed of by transfer to another Accountable Officer within the holding bureau, to other bureaus of the Department of the Interior, and to other Federal agencies shall be recorded on Transfer of Property Form DI-104, or a modification thereof, to provide a document of entry to property records and accounts. Sufficient copies of the transfer document should be prepared, signed, and distributed to satisfy the property and accounting requirements of both the transferor and the transferee offices.

Subpart 114-43.3—Utilization of Excess

§ 114-43.301 Federal Government procedure.

The objective of the policy that excess property is the first source of supply is to obtain effective and economical utilization of property already owned by the Federal Government. Effective and economical utilization can be determined only through evaluation of use and costs, and excess property may be acquired only when there is such an evaluation and:

(a) The property is needed to meet the known requirements of an authorized planned program; and

(b) Funds are available for the costs of acquisition and for the costs of repair or modification needed to comply with the minimum standards established by the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended.

§ 114-43.301-50 Economic considerations.

The head of each bureau and office is responsible for establishing procedures to ensure that excess property is not acquired unless there has been a determination that such acquisition is practicable and economically feasible. Such a determination requires consideration of the costs involved, including the costs of transportation, handling, and storage. When the proposed acquisition involves any type of machinery or equipment, consideration shall also be given to the following factors:

(a) The duration of the program and the frequency of use to determine any economic advantage of ownership versus loan or rental; and

(b) The nature of any repairs, modifications, and additional accessorial equipment required to bring the item up to the minimum standards of the Occupational Health and Safety Act, and the total costs involved.

§ 114-43.302 Agency responsibility.

(a) When excess personal property is acquired and made available for use on cost-reimbursement type contracts (as defined in FPR 1-3.405), title remains vested in the Government. The office administering the contract is responsible for ensuring that appropriate accounting and property accountability records are established and maintained. When such property is no longer needed for the contract, it shall be reassigned or disposed of in accordance with FPMR 101-43.319.

§ 114-43.306 Property not required to be reported.

Personal property that is not reportable to GSA as excess (see § 114-43.001-52) shall be reported to the appropriate GSA regional office for donation or sale.

§ 114-43.311 Reporting requirements.

§ 114-43.311-1 Reporting.

In accordance with 205 DM 9, the head of each bureau and office is authorized to report to the General Services Administration any personal property that has been determined to be excess to the needs of the Department. Prior to any such determination of excess:

(a) Available ADP equipment will be referred to the Office of ADP Management in accordance with 306 DM 5;

(b) Available aircraft will be referred to the Office of Aircraft Services in accordance with procedures established by that office;

(c) All types of books, periodicals, other publications, and related material will be referred to the Office of Library and Information Services in accordance with procedures established by that office;

(d) All other available personal property will be screened against Departmental needs in accordance with § 114-43.102.

§ 114-43.315 Transfers of excess property.

The authority to transfer excess personal property to and from other Federal agencies has been delegated to the Heads of Bureaus and Offices in 205 DM 9.

§ 114-43.315-2 Information of availability.

Bureaus and Offices are encouraged to use GSA Form 1539 to make their needs for major or large equipment items known to GSA. Consideration of the use of excess property should not be limited to that which has been circularized by GSA as available for transfer. For example, the need for equipment items should be made known to GSA well in advance to provide the greatest opportunity to locate equipment which (a) is currently available from excess sources or (b) may be available, but has not been declared excess or circularized as available for utilization.

§ 114-43.315-3 Fair value reimbursement.

Transfers of available property within the Department of the Interior shall be made without exchange of funds, except that:

(a) The disposing Bureau or Office may elect to receive reimbursement at the GSA fair value where the property involved is reimbursable by law, unless such requirement for reimbursement can be satisfied or equitably avoided through appropriate accounting procedures.

(b) The receiving Bureau or Office shall pay the GSA fair value in all instances where the property being acquired will be carried in accounts, disposals from which are reimbursable.

§ 114-43.315-5 Procedure for effecting transfers.

In accordance with FPMR 101-43.315-5, certain categories of any excess personal property may be transferred to other Federal agencies without prior GSA approval; however, such property may not be transferred until Departmental screening requirements have been met and no other Interior activity has indicated a need for the property.

§ 114-43.316 Contractor inventory.

(a) Before a contractor or subcontractor is authorized to retain or dispose of contractor inventory:

(1) The property must first be determined excess to Department of the Interior needs in accordance with IPMR 114-43.102.

(2) The types of property covered by FPMR 101-43.316-1(a) (1) through (8) must be determined surplus to all Federal agency needs.

(b) An equitable settlement must be made for any property retained by a contractor.

(c) When a contractor is authorized to dispose of contractor inventory by sale, such sale shall be by the competitive bid method, the bid price shall be approved by the contracting officer or his representative prior to award, and the proceeds shall be credited to the United States.

(d) Transfers of contractor inventory within the Department shall be without exchange of funds in all instances where any proceeds would be for deposit in miscellaneous receipts. Where the proceeds would be deposited otherwise, the extent of reimbursement will be determined by the disposing office, but in no case will it exceed the estimated fair market value of the property.

§ 114-43.317 Costs and proceeds.

§ 114-43.317-1 Costs of care and handling.

The acquiring office should not be billed for direct costs of transfers between Department of the Interior activities unless such costs are in excess of $100.00, and then only when the regional or finance office of the holding activity determines that reimbursement is necessary.

§ 114-43.319 Use of excess property on cost-reimbursement type contracts.

Bureaus and Offices are responsible for determining the use of excess personal property in their cost-reimbursement type contracts in accordance with FPMR 101-43.302, for establishing a system of accountability for such property, and for the ultimate reassignment or disposition of the property.

§ 114-43.320 Use of excess property on grants.

Pub. L. 94-519 amended the Federal Property and Administrative Services Act of 1949 to prohibit Federal agencies from furnishing excess personal property for the use of grantees except under the terms and conditions set forth in FPMR 101-43.320. When it is determined that it will be advantageous to meet these terms and conditions, the sponsoring bureau/office shall establish written procedures that will insure full compliance with FPMR 101-43.320. The Office of Acquisition and Property Management shall be furnished a copy of these written procedures, and shall also be sent a copy of each transfer order submitted to GSA for excess personal property to be made available to a project grantee.

Subpart 114-43.4—Utilization of Abandoned and Forfeited Personal Property

§ 114-43.402 Forfeited or voluntarily abandoned property.

§ 114-43.402-4 Retention by holding agency.

(c) A passenger automobile larger than a compact may be retained only with the prior approval of the Assistant Secretary—Policy, Budget, and Administration.

Subpart 114-43.47—Reports

§ 114-43.4701 Performance reports.

(a) The following supplemental instructions shall be followed in the preparation and submission of the annual report of the utilization of domestic excess personal property.

(1) *Property excepted from reporting.* The following transactions should not be included in the Standard Form 121 report:

(i) Transfers and sales of personal property made pursuant to the Exchange/Sale authority in section 201(c) of the Federal Property and Administrative Services Act of 1949, as amended.

(ii) Destruction, abandonment, or reduction to scrap of property as a result of board of survey action if such property was not, in fact, first determined to be excess or surplus. However, the proceeds from sales of all scrap should be reported on Line 11.

(2) *Preparation of Standard Form 121.*

Line 1. Reassigned within reporting agency. For the purposes of this report, the major organizational components of this Department are its Bureaus and Offices and it would not be feasible to report reassignments within these major components. Only transfers to other Bureaus and Offices should be reported.

Line 2. Include, as property not reported to GSA on Standard Form 120, all non-reportable items made available to GSA and State Surplus Property Agencies. Do not include property previously declared excess which was withdrawn for use within the reporting bureau or office.

Line 3. Do not include transfers to another Bureau or Office in the Department of the Interior.

Lines 4 and 5. Property expended to scrap and abandoned or destroyed. Property reported on these lines shall have been processed in accordance with Board of Survey procedures in § 114-60.9 of this chapter.

Line 6. Donated to public bodies. Report only property donated under the provisions of § 101-44.5 of this title, and include property donated to any Indian tribe as a public body.

Line 7. Other donations. Any entry on this line must be fully explained and justified.

(3) *Submission of Standard Form 121.* A consolidated report for each bureau and office shall be submitted, in duplicate, to the Director, Office of Acquisition and Property Management, within 45 calendar days after the close of each fiscal year. Negative reports are required.

(b) The annual report of the utilization of foreign excess property shall be submitted to the Director, Office of Acquisition and Property Management, within 60 calendar days after the close of each fiscal year. Negative reports are required and may be submitted in memorandum form in lieu of Standard Form 365.

(c) The annual report of personal property furnished to non-Federal recipients shall be submitted to the Director, Office of Acquisition and Property Management, within 60 calendar days after the close of each fiscal year. Negative reports are required.

PART 114-44—DONATION OF PERSONAL PROPERTY

Subparts 114-44.1—114-44.6 [Reserved]

Subpart 114-44.7—Donations of Property to Public Bodies

Sec.
114-44.701 Findings justifying donation to public bodies.
114-44.701-1 General.
114-44.701-2 Reviewing authority.
114-44.701-50 Removal of identification markings.

Subparts 114-44.8—114-44.46 [Reserved]

Subpart 114-44.47—Reports

114-44.4701 Reports.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 43 FR 11580, Mar. 20, 1978, unless otherwise noted.

Subparts 114-44.1—114-44.6 [Reserved]

Subpart 114-44.7—Donations of Property to Public Bodies

§ 114-44.701 Findings justifying donation to public bodies.

§ 114-44.701-1 General.

(a) The findings specified in FPMR 101-44.501-1(a) shall be documented in the form of an approved Report of Survey (see IPMR 114-60.9). The term "public body" includes Indian tribes.

§ 114-44.701-2 Reviewing authority.

All disposals under FPMR 114-44.7 are subject to approval by a reviewing authority in accordance with IPMR 114-60.9.

§ 114-44.701-50 Removal of identification markings.

When property is donated to a non-Federal public body, all identification markings which indicate that the property was previously owned by the Federal Government shall be removed prior to release to the donee.

Subparts 114-44.8—114-44.46 [Reserved]

Subpart 114-44.47—Reports

§ 114-44.4701 Reports.

(a) The annual report of the donation of surplus personal property shall be prepared and submitted in the same manner as the annual report of the utilization of domestic excess personal property (see § 114-43.4701(a)). The reports shall be combined.

(b) The annual report of the donation of foreign excess property shall be prepared and submitted in the same manner as the annual report of the utilization of foreign excess property (see § 114-43.4701(b)). The reports shall be combined whenever practicable.

PART 114-45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Sec.
114-45.000 Scope of part.

Subpart 114-45.1—General

114-45.1 General.
114-45.105-3 Exemptions.

Subpart 114-45.3—Sale of Personal Property

114-45.302 Sale to Government employees.
114-45.303 Reporting property for sale.
114-45.303-3 Delivery.
114-45.304 Sales methods and procedures.
114-45.304-2 Negotiated sales and negotiated sales at fixed prices.
114-45.304-6 Reviewing authority.
114-45.304-9 Credit.
114-45.316 Report on identical bids.
114-45.316-2 Reporting requirements and procedures.
114-45.317 Noncollusive bids and proposals.
114-45.317-50 Compliance review.

Subpart 114-45.5—Abandonment or Destruction of Surplus Property

114-45.501 Findings justifying abandonment or destruction.
114-45.501-1 General.
114-45.501-2 Reviewing authority.
114-45.504 Abandonment or destruction without notice.
114-45.506 Abandonment or destruction of expendable property.

Subpart 114-45.6—Debarred and Suspended Bidders

114-45.603 Notice of department or suspension.

Subpart 114-45.8—Mistakes in Bids

114-45.803 Other mistakes disclosed before award.
114-45.804 Mistakes disclosed after award.

Subpart 114-45.47—Reports

Sec.
114-45.4701 Performance reports.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 43 FR 11580, Mar. 20, 1978, unless otherwise noted.

§ 114-45.000 Scope of part.

(a) This part applies to disposal by public sale, abandonment, or destruction of personal property under the jurisdiction of Bureaus and Offices of the Department of the Interior (including scrap, salvage, and waste material) when such property is no longer needed for use in authorized Federal agency programs or is replaced with a similar type of property. It applies to personal property located in the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(b) This part does not apply to:

(1) Foreign excess personal property or,

(2) Properties which are sold or otherwise disposed of pursuant to special statutes authorizing, directing, or requiring the Department of the Interior to dispose of specific properties such as helium, maps, electrical power, irrigation and municipal water, trust properties of the Bureau of Indian Affairs, and other properties which are disposed of in furtherance of Interior programs, except as provided in IPMR 114-45.316 and 114-45.317.

Subpart 114-45.1—General

§ 114-45.1 General.

§ 114-45.105-3 Exemptions.

(a) Negotiated sales of special protective clothing and equipment such as prescription safety glasses, diver's wet suits, and safety toe shoes and boots may be made under the following circumstances:

(1) Clothing or equipment was designed or purchased for use by a specific employee under 5 U.S.C. 7903.

(2) Employee is separated or is transferred to a function where the special items are no longer required.

(3) Proceeds from sale are under $100.

(4) Competition is obtained to the extent possible under the circumstances.

(b) Each sale conducted under § 114-45.105(a) will be reported to the GSA Regional Office having jurisdiction over the area where the sale was conducted. The report will be made on an annual basis and will include the date of sale, type of property involved, the original acquisition cost, the proceeds, and the purchaser's name.

(c) Sale value will be determined as follows:

(1) The sale value of prescription ground safety glasses will be established by a depreciation factor of 40 percent, of original acquisition cost, for each full year of use. The minimum sale value will be 20 percent of the original acquisition cost.

(2) The sale value of other protective clothing and equipment will be established by a depreciation factor of 10 percent, of original acquisition cost, for each full calendar quarter of use. The minimum sale value will be 20 percent of the original acquisition cost.

(d) Any request seeking an exemption from the provisions of FPMR Part 101-45 in accordance with FPMR 101-45.105-3(a), shall be prepared for the signature of the Assistant Secretary—Policy, Budget, and Administration, and include full particulars which tend to justify the exemption

[43 FR 42751, Sept. 21, 1978]

Subpart 114-45.3—Sale of Personal Property

§ 114-45.302 Sale to Government employees.

While not unlawful, sales of personal property to Federal employees tend to give rise to the question in the public mind as to whether all prospective bidders are really on equal footing. What is feared is not so much collusion or overtly dishonest practices, as that the Federal employee, through his prior use of the property, or close associations with those familiar with the property, is in a somewhat more advantageous position than the member of the general public in making his bid. In this regard, therefore, all sales of personal property within the Department will be subject to the following requirements:

(a) Subject to the provisions of IPMR 114-45.302(b) and 114-45.302(c), Federal employees will be eligible to bid only on:

(1) Such surplus personal property as was reported to the General Services Administration as excess and found to be surplus by that agency without regard to whether the sale is conducted by GSA or by the holding Bureau. However, except as otherwise provided in IPMR 114-45.302(d), Federal employees will always be permitted to bid on such surplus personal property.

(2) Motor vehicles and other personal property being sold for replacement purposes pursuant to the Exchange/Sale authority found in section 201(c) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(c)): *Provided*, That such property meets prescribed replacement standards.

(b) Personal property may be sold to Federal employees only by the publicly advertised sealed bid or public auction sales methods.

(c) Notices of Public Auction and Invitation to Bid will state the extent to which Federal employees are eligible to bid, and provide that any Federal employee submitting a bid identify himself, his organization and position.

(d) Awards shall not be made to:

(1) Any employee of the holding Bureau or Office who served on a Board of Survey with regard to property being sold, determined that it was no longer needed, or is connected directly with any aspect of the sale, or

(2) Any Federal employee whose past association with the property being sold has been such that he might reasonably be considered to be bidding from an advantageous position.

(e) The provisions of IPMR 114-45.302 are applicable to Federal employees and to members of their immediate families, specifically the spouses and children of such employees.

§ 114-45.303 Reporting property for sale.

§ 114-45.303-3 Delivery.

(a) All identification markings which indicate that the property was previously owned by the Government shall be removed prior to release to the purchaser. U.S. Government tags shall be removed from motor vehicles, trailers, or other equipment bearing such tags prior to release to purchasers.

(b) Standard Form 97, the U.S. Government Certificate of Release of a Motor Vehicle, will be executed by the agency conducting the sale of the vehicle. When executed by an office of the Department of the Interior, the certificate will be numbered prior to release to the individual purchasing the vehicle, otherwise it will not be honored by the State motor vehicle agency. Such number may be assigned by the issuing office at the time of preparation, or the forms may be prenumbered at the bureau, regional, or area office level at the discretion of the head of each Bureau and Office. Stocks of Standard Form 97 must be controlled so as to ensure against blank copies being obtained by unauthorized personnel.

§ 114-45.304 Sales methods and procedures.

§ 114-45.304-2 Negotiated sales and negotiated sales at fixed prices.

(a) Should any Bureau or Office propose to negotiate a sale of surplus personal property which, if disposed of by advertising, might cause such an impact on industry as to adversely affect the national economy, a statement of the circumstances justifying sale by negotiation shall be submitted to the Assistant Secretary—Policy, Budget and Administration, for consideration and transmittal to the General Services Administration.

(b) Explanatory statements required to be submitted to the General Services Administration for transmittal to the committees of the Senate and House of Representatives pursuant to FPMR 101-45.304-2(c) shall be prepared following the outline shown in FPMR 101-45.4919. Such statements shall be submitted as attachments to a transmittal letter addressed to the Administrator, General Services Administration, Washington, D.C. 20405, prepared for the signature of the Assistant Secretary—Policy, Budget, and Administration.

§ 114-45.304-6 Reviewing authority.

For purposes of this section, a reviewing authority may not be lower than the regional, area, or State Director.

§ 114-45.304-9 Credit.

Requests for approval to offer to sell personal property on credit shall be addressed to the Administrator, General Services Administration, Washington, D.C. 20405, and be prepared for the signature of the Assistant Secretary—Policy, Budget and Administration. Each request should include a brief explanation of the proposed terms and conditions of sale.

§ 114-45.316 Report on identical bids.

§ 114-45.316-2 Reporting requirements and procedures.

(a) The reporting requirements specified in 41 CFR 101-45.316-2 are applicable to all sales of Government-owned personal property made on a competitive basis, including program sales made pursuant to special statutes authorizing the Secretary of the Interior to sell specific items of personal property.

(b) Reports on identical bids required by 41 CFR 101-45.316-2 shall be submitted by the head of Bureaus and Offices directly to the Attorney General. A copy of the transmittal letter and a copy of the abstract of bids shall be furnished to the Director of Administrative and Management Policy (PM).

§ 114-45.317 Noncollusive bids and proposals.

(a) Certificate of independent price determination. A certificate of independent price determination shall be required with each bid or offer for the purchase of personal property, except where the price is fixed in advance of sale pursuant to law or regulation.

(1) The certificate of independent price determination clause contained

in Condition No. 20 of the General Sale Terms and Conditions, Standard Form 114C, shall be included in all invitations for bids and requests for quotations on Government sales of personal property and shall be submitted with sealed bids and written quotations submitted in response thereto.

(2) Auction and Spot Bid Sales. Bureaus and Offices conducting sales of Government property by the auction or spot bid methods shall include an appropriate provision in the sales notice which will put the successful bidder on notice that he will be required, as a condition of award, to sign a certificate to the effect that "the bid was arrived at by the bidder or offeror independently, and was tendered without collusion with any other bidder or offeror."

(3) The requirement for a certificate of independent price determination applies to sales of surplus personal property and to program sales made pursuant to special statutes as referred to in IPMR 114-45.316-2(a).

(b) The authority to make the determinations referred to in 41 CFR 101-45.317(b) is vested in the heads of Bureaus and Offices and may not be redelegated.

(c) Reporting suspected antitrust violations: Whenever any Bureau or Office has factual information leading it to believe or suspect that bids received in response to a sales offering evidence collusion on the part of two or more bidders designed to eliminate competition, full particulars shall be submitted to the Solicitor for consideration and possible referral to the Attorney General. This submission should include a summary of the pertinent facts concerning the reported case and in the case of a formally advertised sale, a copy of the Invitation for Bids, the Abstract of Bids, and the Bid of the bidder(s) suspected of irregular practices; the name of the successful bidder and reason why the award was made to him; and any other information available which might tend to establish possible violation of the antitrust laws. Reports required by this paragraph are in addition to and not in lieu of the identical bid reports required by IPMR 114-45.316-2(b).

(1) Reporting procedure: Reports of suspected antitrust violations should be transmitted to the Solicitor in the following format:

ASSISTANT ATTORNEY GENERAL,
Antitrust Division, Department of Justice,
Washington, D.C. 20530.

DEAR SIR: We transmit to you a case where bids received in response to invitation No. —— for (item(s) description), to be sold (sale date), were opened by (selling bureau or office and location) on ————, 19—. Evidence of collusion or other conduct in violation of antitrust laws is herewith reported as follows:

Award was made to ————. (In the next sentence explain the method by which the successful bidder was selected, i.e., high bidder, etc., unless all bids were rejected and the sale effected by readvertisement or negotiation, in which case, furnish details.)

Sincerely yours,

————————,
Solicitor.

Enclosure:

(2) The following copies are required:

(i) Original on "Office of the Solicitor" stationery;

(ii) Shadow copy to accompany the original on letterhead tissue;

(iii) White surname box copy on letterhead tissue;

(iv) White letterhead tissue copy to be marked "Docket Copy";

(v) White letterhead tissue copy to be marked "Director of Administrative and Management Policy"; and

(vi) Other information copies as may be required by the Bureau or Office.

§ 114-45.317-50 Compliance review.

The head of each Bureau and Office engaged in programs which involve the conduct of sales of Government property shall install an appropriate monitoring system at the headquarters office level to insure compliance with these reporting requirements and procedures.

Subpart 114-45.5—Abandonment or Destruction of Surplus Property

§ 114-45.501 Findings justifying abandonment or destruction.

§ 114-45.501-1 General.

The findings specified in FPMR 101-45.501-1 shall be documented in the form of an approved Report of Survey.

§ 114-45.501-2 Reviewing authority.

For purposes of FPMR 101-45.501-2, a reviewing authority shall be the same as specified in IPMR 114-44.701-2.

§ 114-45.504 Abandonment or destruction without notice.

(a) Findings justifying abandonment or destruction of personal property without public notice shall be made by a Board of Survey or Survey Officer and approved by an appropriate reviewing authority. (See IPMR 114-60.9)

§ 114-45.506 Abandonment or destruction of expendable property.

Destruction of expendable property will be governed by the following:

(a) *Serviceable property.* Serviceable items of expendable property may be destroyed only when the requirements of IPMR 114-60.9 have been met.

(b) *Unserviceable property.* Expendable items of property which have been rendered unserviceable through normal use may be destroyed without survey action and without public notice provided the items clearly have no scrap or salvage value.

(c) *Scrap and salvage.* Scrap and salvaged items of expendable property may be destroyed only when the requirements of IPMR 114-60.9 have been met.

Subpart 114-45.6—Debarred and Suspended Bidders

§ 114-45.603 Notice of debarment or suspension.

Determination to debar or suspend a firm or individual for a cause or condition for a specified period of time as provided in FPMR 101-45.6 shall be made by the Assistant Secretary—Policy, Budget, and Administration. Whenever cause for debarment or suspension becomes known to the head of a Bureau or Office, or a sales or contracting officer thereof, the matter shall be submitted with the recommendations of the head of the Bureau or Office, to the Assistant Secretary—Policy, Budget and Administration, who will take all actions required by FPMR 101-45.603.

Subpart 114-45.8—Mistakes in Bids

§ 114-45.803 Other mistakes disclosed before award.

(a) The Director, Office of Acquisition and Property Management, is authorized to make the determinations contemplated by 41 CFR 101-45.803. This authority may not be redelegated.

(b) Each proposed determination shall be approved by the Solicitor, an Associate Solicitor, or comparable legal officer of the Department before it becomes effective.

(c) Where a bidder furnished evidence in support of an alleged mistake in bid, the case shall be referred to the Director, Office of Acquisition and Property Management for determination. The referral shall include the documents and data specified in 41 CFR 101-45.803(d)(3).

(d) The Office of Acquisition and Property Management shall maintain case file records of all administrative determinations made in accordance with 41 CFR 101-45.803. A copy of the determination shall be attached to each copy of any contract rescission or reformation resulting therefrom.

§ 114-45.804 Mistakes disclosed after award.

(a) The Director, Office of Acquisition and Property Management, is authorized to make the determination contemplated by 41 CFR 101-45.804. This authority may not be redelegated.

(b) Each proposed determination shall be approved by the Solicitor, an Associate Solicitor, or comparable legal officer of the Department before it becomes effective.

(c) Where a bidder furnishes evidence in support of an alleged mistake in bid, the case shall be referred to the Director of Administrative and Management Policy (PM) for determination. The referral shall include the documents and data specified in 41 CFR 101-45.804(f)(2).

(d) The Office of Acquisition and Property Management shall maintain case file records of all administrative determinations made in accordance with CFR 101-45.804. A copy of the determination shall be attached to each copy of any contract rescission or reformation resulting therefrom.

Subpart 114-45.47—Reports

§ 114-45.4701 Performance reports.

(a) The annual report of the sale or other disposition of surplus personal property shall be prepared and submitted in the same manner as the annual report of the utilization of domestic excess personal property (see § 114-43.4701(a)). The reports shall be combined whenever practicable.

(b) The annual report of the sale or other disposition of foreign excess property shall be prepared and submitted in the same manner as the annual report of the utilization of foreign excess property (see § 114-43.4701(b)). The reports shall be combined whenever practicable.

PART 114-46—UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

Subpart 114-46.2—Authorization

Sec.
114-46.202 Restrictions and limitations.

Subpart 114-46.3—Transfer and Exchange Between Federal Agencies

114-46.301 Agency responsibility.

Subpart 114-46.4—Disposal

114-46.400 Scope of subpart.
114-46.407 Reports.
114-46.4902 Exchange/sale category list.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 43 FR 11582, Mar. 20, 1978, unless otherwise noted.

Subpart 114-46.2—Authorization

§ 114-46.202 Restrictions and limitations.

(a) Basic responsibility for compliance with 41 CFR Part 101-46 rests with Bureaus and Offices. Consistent with Departmental financial management practices, Bureaus and Offices should establish procedures to provide adequate management control and documentation of exchange/sale transactions.

Subpart 114-46.3—Transfer and Exchange Between Federal Agencies

§ 114-46.301 Agency responsibility.

Property available for exchange or sale pursuant to section 201(c) of the Federal Property and Administrative Services Act of 1949, as amended, is not "available" property as defined in IPMR 114-43.104-50, nor does it become excess or surplus. For purposes of Departmental screening, however, the holding office of such property should apply within the Department the same utilization and transfer requirements as FPMR 101-46.3 requires be applied with other Federal agencies.

Subpart 114-46.4—Disposal

§ 114-46.400 Scope of subpart.

Personal property being replaced pursuant to the exchange/sale authority found in 40 U.S.C. 481(c), shall be reported to the appropriate regional office of the General Services Administration for sale purposes in accordance with this FPMR 101-46.400 in the following instances:

(a) The Bureau or Office has determined that disposal by outright sale is in the best interest of the Government in accordance with FPMR 101-46.402, or

(b) When the General Services Administration is handling the procurement of the replacement property.

§ 114-46.407 Reports.

The report on exchange/sale transactions shall be prepared in accordance with FPMR 101-46.407 and submitted to the Office of Acquisition and

Property Management within 60 calendar days after the close of each fiscal year. The report, consolidated for the Bureau or Office, should be submitted in the form of a memorandum and include, without distinction, transactions handled by the General Services Administration and those handled by the reporting Bureau or Office. In the event a report includes property in Federal Supply Classification Groups 32, 34, 68, or 75 (only certain items in each of these Groups are eligible for handling under the provisions of Part 101-46), it should also include a brief description of the items exchanged or sold.

§ 114-46.4902 Exchange/sale category list.

The exchange/sale category list in this section does not represent an all-inclusive listing of items eligible for disposal under the exchange/sale authority. Other items or categories of items (except those listed in FPMR 101-46.4901) may be disposed of pursuant to the authority provided that the requirements of FPMR 101-46.2 are met. It should be noted that the items listed in this section are numbered in sequence and not by Federal Supply Classification Group numbers.

PART 114-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Sec.
114-47.000 Scope of part.

Subpart 114-47.1—General Provisions

114-47.103 Definitions.
114-47.103-50 Available real property.
114-47.103-51 Excess real property.
114-47.103-52 Surplus real property.

Subpart 114-47.2—Utilization of Excess Real Property

114-47.201 General provisions of subpart.
114-47.201-1 Policy.
114-47.201-2 Guidelines.
114-47.201-3 Lands withdrawn or reserved from the public domain.
114-47.202 Reporting of excess real property.
114-47.202-1 Reporting requirements.
114-47.202-4 Exceptions to reporting.
114-47.202-6 Reports involving the public domain.
Sec.
114-47.202-10 Examination for acceptability.
114-47.203 Utilization.
114-47.203-1 Reassignment of real property by the agencies.
114-47.203-2 Transfer and utilization.
114-47.203-3 Notification of agency requirements.
114-47.203-7 Transfers.
114-47.203-8 Temporary utilization.
114-47.204 Determination of surplus.
114-47.204-2 Property excepted from reporting.

Subpart 114-47.3—Surplus Real Property Disposal

114-47.301 General provisions of subpart
114-47.301-3 Disposals under other laws.
114-47.301-5 Records and reports.
114-47.302 Designation of disposal agencies.
114-47.302-2 Holding agency.
114-47.304 Advertised and negotiated disposals.
114-47.304-8 Report of identical bids.
114-47.304-12 Explanatory statements.
114-47.304-50 Sales to Government employees.
114-47.304-51 Noncollusive bids and proposals.
114-47.304-52 Compliance review.
114-47.308 Special disposal provisions.
114-47.308-3 Property for historic monument sites.
114-47.308-7 Property for use as public park or recreation areas.

Subpart 114-47.4—Management of Excess and Surplus Real Property

114-47.401 General provisions of subpart.
114-47.401-6 Interim use and occupancy.

Subpart 114-47.5—Abandonment, Destruction, or Donation to Public Bodies

114-47.501 General provisions of subpart.
114-47.501-4 Findings.
114-47.503 Abandonment and destruction.
114-47.503-1 General.
114-47.503-3 Abandonment or destruction without notice.

Subpart 114-47.6—Delegations

114-47.603 Delegation to the Department of the Interior.

Subpart 114-47.8—Identification of Unneeded Federal Real Property

114-47.800 Scope of subpart.
114-47.802 Procedures.
114-47.802-50 Disposal criteria.

Sec.
114-47.802-51 Funds and statutory authority.
114-47.802-52 Bureau implementation.
114-47.802-53 Intrabureau records.
114-47.802-54 Annual report to the Department.

Subpart 114-47.51—Permits

114-47.5101 Scope of subpart.
114-47.5102 Applicability.
114-47.5103 Definition of permit.
114-47.5104 Authority.
114-47.5105 Limitations.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 5 U.S.C. 301, 40 U.S.C. 486(c).

§ 114-47.000 Scope of part.

The provisions of this part are applicable to all available, excess, and surplus real property and related personal property under the jurisdiction of Bureaus and Offices of the Department of the Interior in the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

[40 FR 33217, Aug. 8, 1975]

Subpart 114-47.1—General Provisions

SOURCE: 35 FR 295, Jan. 8, 1970, unless otherwise noted.

§ 114-47.103 Definitions.

§ 114-47.103-50 Available real property.

Available real property is property which is no longer needed for the program activities of the Interior Bureau or Office having control thereof and which properly may be determined to be excess if no further need exists for such property within the Department of the Interior.

§ 114-47.103-51 Excess real property.

Excess real property is real property not required for the program activities of the Federal agency (see FPMR 101-43.104-7) having jurisdiction over the property. With respect to real property under the control of an Interior Bureau or Office, excess real property is that which is not required for the program activities of any Bureau or Office of the Department of the Interior, as determined by circularization (see IPMR 114-47.203).

§ 114-47.103-52 Surplus real property.

Surplus real property is any excess real property not required for the needs and responsibilities of any agency of the Federal Government.

Subpart 114-47.2—Utilization of Excess Real Property

SOURCE: 35 FR 295, Jan. 8, 1970, unless otherwise noted.

§ 114-47.201 General provisions of subpart.

§ 114-47.201-1 Policy.

It is the policy of the Department of the Interior to:

(a) Survey all of its real property holdings at least once each year to determine that which is available for reassignment within the Department and that which is excess to its program needs.

(b) Achieve the maximum utilization by Interior Bureaus and Offices, in terms of economy and efficiency, of available real property in order to minimize expenditures for the purchase of real property.

(c) Provide for the reassignment of available real property among Interior Bureaus and Offices and facilitate the transfer of excess real property to other Federal agencies.

§ 114-47.201-2 Guidelines.

(a) Each Interior Bureau and Office having jurisdiction over real property shall:

(1) Survey all of its real property holdings at least once each year to determine which holdings, or portions thereof, are no longer needed in Interior programs or are uneconomically utilized. (See IPMR 114-47.8.)

(2) Promptly facilitate the transfer of real property which becomes available as a result of program completions, changes, curtailments, etc.

(3) Except as provided in IPMR 114-47.202-4 and 114-47.202-6, promptly report to the General Services Administration real property which has been

determined to be excess to the Department's needs. (See IPMR 114-47.203-1.)

(4) Maintain its inventory of real property at the absolute minimum consistent with the economical and efficient conduct of assigned programs.

(b) Each Interior Bureau and Office shall, so far as is practicable and to the extent compatible with its program requirements, fulfill its needs for real property by utilization of available property offered by other Interior Bureaus and Offices and excess property held by other Federal agencies.

(c) Guidelines for notifying the General Services Administration of requirements for real property are set forth in IPMR 114-47.203-3.

[35 FR 295, Jan. 8, 1970, as amended at 36 FR 24004, Dec. 17, 1971]

§ 114-47.201-3 Lands withdrawn or reserved from the public domain.

(a) Withdrawn or reserved public domain lands, improved or unimproved, no longer needed by the holding Bureau or Office should be reported to the appropriate office of the Bureau of Land Management as provided in 43 CFR 2370.0-1 through 2374.2. If the Bureau of Land Management with the concurrence of the General Services Administration, determines that the property is not suitable for return to the public domain or disposable under the public land laws, then the circularization requirements of IPMR 114-47.203-1 and the reporting requirements of FPMR 101-47.202 will thereafter apply to such property.

(b) Improvements located on public domain land but being disposed of apart from such land are not reportable to the Bureau of Land Management.

[35 FR 295, Jan. 8, 1970, as amended at 38 FR 9081, Apr. 10, 1973]

§ 114-47.202 Reporting of excess real property.

§ 114-47.202-1 Reporting requirements.

(a) The authority to report such property as is no longer needed within the Department as excess to the General Services Administration has been delegated to the heads of Bureaus and Offices in 205 DM 10.

(b) Any request made by the Administrator of General Services for an office of this Department to institute specific surveys in accordance with this subsection must have the advance approval of the Assistant Secretary—Policy, Budget and Administration.

[35 FR 295, Jan. 8, 1970, as amended at 36 FR 17038, Aug. 27, 1971; 38 FR 9081, Apr. 10, 1973]

§ 114-47.202-4 Exceptions to reporting.

FPMR 101-47.603 delegates authority to the Secretary of the Interior to determine real property having an estimated fair market value of less than $1,000 to be surplus to the needs of all Federal agencies and thereafter to dispose of such property. This authority has been redelegated to the heads of Bureaus and Offices in 205 DM 10. The delegation includes a provision excepting such property from the reporting requirements of FPMR 101-47.202-1. Therefore, excess real property (including land, with or without improvements) having an estimated fair market value of less than $1,000 is also excepted from reporting to the General Services Administration.

§ 114-47.202-6 Reports involving the public domain.

(a) The procedures set forth in this section (see also IPMR 114-47.201-3) shall be complied with before any withdrawn public domain land is declared to the General Services Administration as excess to Interior needs.

(b) Excess withdrawn public domain land, with or without improvements, having an estimated fair market value of less than $1,000 is excepted from reporting to the General Services Administration as provided in IPMR 114-47.202-4. The provisions of this section must be complied with before any such land is determined by the holding Bureau or Office to be excess or surplus.

§ 114-47.202-10 Examination for acceptability.

Care must be taken to insure that complete and accurate excess reports, S.F. 118, are furnished the General Services Administration as the holding bureau must bear the expense of care and maintenance of the property for a period of 12 months plus the period to the first day of the succeeding quarter of the fiscal year after the date of receipt by GSA of an acceptable excess report.

§ 114-47.203 Utilization.

§ 114-47.203-1 Reassignment of real property by the agencies.

Available real property shall be screened against Department of the Interior needs in accordance with this § 114-47.203 before it is determined to be excess. The authority to reassign or to transfer available real property and related personal property has been delegated to heads of Bureaus and Offices in 205 DM 10.

(a) *Holding bureau utilization.* Each Bureau and Office holding available real property (see definition in IPMR 114-47.103-50) shall insure that its own offices are afforded an opportunity to utilize such property either prior to or simultaneously with circularization of other Bureaus and Offices of the Department.

(b) *Circularization of real property under $1,000 in value.* Routine written circularization of available real property having an estimated fair market value of less than $1,000 should be avoided. Real property in this category shall be offered to those Interior and other Federal agency offices which the holding office believes might be interested in its acquisition, considering the nature and location of the property.

(c) *Circularization of real property $1,000 and over.* Available real property having an estimated fair market value of $1,000 or over shall be offered to bureaus and offices of the Department of the Interior as provided in IPMR Temporary Regulation No. 6 before it is determined to be excess: *Provided,* That where the head of the regional, area or State office responsible for the property determines that its nature or location virtually precludes further Departmental utilization, and such determination is made a part of the disposal record, then the property shall be subject to such circularization as he may direct. (See also IPMR 114-47.203-1(f).)

(d) *Circularization of power transmission facilities.* The approval of the appropriate program Assistant Secretary shall be obtained prior to circularization of any available power transmission line or related facility having an estimated fair market value of $1,000 or more.

(1) In the case of planned disposal of facilities held by the Bonneville Power Administration, Alaska Power Administration, and the Southwestern Power Administration such approval shall be obtained from the Assistant Secretary—Energy and Minerals.

(2) In the case of planned disposal of facilities held by the Bureau of Reclamation, approval of the Assistant Secretary—Land and Water Resources shall be obtained.

(3) Requests for approval to initiate action to dispose of power transmission facilities shall be accompanied by a complete description of the circumstances which the holding Bureau believes makes such disposal feasible. A copy of each request shall be furnished the Chief, Division of Property Management, Office of Administrative Management Policy.

(e) *Reimbursement.* Transfers of available real property within the Department of the Interior shall be made without exchange of funds, except:

(1) The disposing bureau may elect to receive reimbursement, to the extent that it would receive reimbursement under FPMR 101-47.203-7 if the property were excess, where the property being transferred is reimbursable by law, unless such requirement for reimbursement can be satisfied or equitably avoided through appropriate accounting procedures.

(2) The receiving bureau shall make reimbursement, determined as though the property were excess in accordance with FPMR 101-47.203-7, in all instances where the property being acquired will be carried in accounts disposals from which are reimbursable.

(f) *Determination of real property as excess.* Real property not transferred as a result of the circularization prescribed in this § 114-47.203-1 shall be determined to be excess to the needs of the Department of the Interior. The excess determination shall be evidenced in writing and made a part of the disposal file. If reportable in accordance with FPMR 101-47.202, it shall be promptly declared to the General Services Administration. If not reportable under such regulations or IPMR 114-47.202-4, it shall be determined to be surplus promptly in accordance with the provisions of FPMR 101-47.2.

[35 FR 295, Jan. 8, 1970, as amended at 38 FR 9081, Apr. 10, 1973; 40 FR 12080, Mar. 17, 1975; 40 FR 21954, May 20, 1975]

§ 114-47.203-2 Transfer and utilization.

The authority to transfer excess real property to other Federal agencies and to obtain excess real property from other agencies has been delegated to the heads of Bureaus and Offices in 205 DM 10. Transfers to and from other agencies shall be made in accordance with the provisions of FPMR 101-47.2.

§ 114-47.203-3 Notification of agency requirements.

Because of the nature of the conservation programs carried on by this Department most of its requirements for real property, particularly land, are dictated by such factors as geographical location, topography, engineering and similar characteristics which limit the extent to which excess real property can be utilized. For example, requirements for land for use as a refuge, park, or a dam site are generally for specific land, and land already in Government ownership or control can be utilized for these purposes only when its location and other characteristics coincide with the program need. Therefore, the appropriate GSA regional office shall be notified of requirements for real property only when:

(a) Specific property is not required, or

(b) Specific property is required and such property is held in the GSA excess inventory or is held by another Federal agency outside the Department of the Interior.

NOTE: The provisions of this § 114-47.203-3 do not apply to *acquisition by* lease of interests in real property as covered in FPMR 101-18.1.

§ 114-47.203-7 Transfers.

(a) One copy of GSA Form 1334, Request for Transfer of Excess Real Property and Related Personal Property, shall be furnished the Director, Office of Administration and Management Policy (PM), Office of the Assistant Secretary—Policy, Budget and Administration, when:

(1) The request seeks to acquire excess real property without reimbursement regardless of the appraised fair market value of the property, or

(2) The request for transfer involves excess real property having a total appraised fair market value of $100,000 or more.

(b) Except as provided in IPMR 114-47.203-7(e), transfers of excess real property to Federal agencies outside of the Department of the Interior must have the prior approval of the General Services Administration. Bureaus and offices holding excess real property which is subject to this prior approval shall refrain from making commitments to other Federal agencies regarding transfer of such property. Any inquiries received from potential transferees shall be referred to the appropriate GSA regional office for determination.

(c)-(d) [Reserved]

(e) FPMR 101-47.203-7(e) provides that certain categories of excess real property may be transferred by the holding agency without reference to GSA. In addition to the categories listed, Bureaus and offices of this Department may transfer, without reference to GSA, any excess real property having an estimated fair market value of less than $1,000 in accordance with the authority delegated in 205 DM 10.3A(6).

(f) Whenever a Bureau or office seeks to acquire excess real property without reimbursement, the certification required by FPMR 101-47.203-7(f)(2)(iii) shall be signed by an official not below the Chief Administrative Officer of the Bureau. Similarly, whenever Block 9 of GSA Form 1334 is checked to indicate that funds are not available for reimbursement for the transfer of the property, the certification in Block 10 of such form shall be signed by an official not below the

Chief Administrative Officer of the Bureau.

[36 FR 24004, Dec. 17, 1971, as amended at 39 FR 12989, Apr. 10, 1974; 40 FR 5527, Feb. 6, 1975]

§ 114-47.203-8 Temporary utilization.

Interior regulations governing the temporary use, by another Federal agency, of real property determined to be excess to Department of the Interior needs are contained in IPMR 114-47.51.

§ 114-47.204 Determination of surplus.

§ 114-47.204-2 Property excepted from reporting.

Excess property having an estimated fair market value of less than $1,000, and not designated for utilization by another Federal agency, is subject to determination as surplus by the holding Bureau or Office in addition to the nonreportable properties listed in FPMR 101-47.202-4.

Subpart 114-47.3—Surplus Real Property Disposal

SOURCE: 35 FR 298, Jan. 8, 1970, unless otherwise noted.

§ 114-47.301 General provisions of subpart.

§ 114-47.301-3 Disposals under other laws.

Numerous special statutes are on the books which authorize the Secretary to dispose of real property no longer needed for program purposes by the holding Bureau or Office. Many of these laws predate the Federal Property and Administrative Services Act of 1949, as amended. Where such special law provides that disposal will be made to the general public, as opposed to a specific named individual, firm, or organization, disposal shall be subject to the utilization and disposal provisions of IPMR 114-47.

§ 114-47.301-5 Records and reports.

A Report of Surplus Real Property Disposals and Inventory, GSA Form 1100, shall be prepared annually on a fiscal year basis by each Bureau and Office holding real property. The report shall be prepared and submitted in accordance with FPMR 101-47.4903 and the following supplemental instructions:

(a) *Preparation.* (1) The report should include only surplus real property inventory and disposals which are being transacted by Interior Bureaus and Offices pursuant to disposal authorities delegated to the Department in FPMR 101-47.302-2, 101-47.603, and any special one-time disposal authority which may be delegated by the General Services Administration.

(2) Transfers of available real property between Interior Bureaus and transfers of excess real property to other Federal agencies outside Interior should not be reported on GSA Form 1100. However, in the event real property is withdrawn from the surplus inventory for further Federal agency utilization, the transaction should be reported on Line 13 of the form.

(3) Note that disposal transactions, as well as inventory data, are to be reported on the basis of "locations"—not number of transactions, parcels of land, buildings, etc.

(b) *Submission and due date.* GSA Form 1100 shall be submitted in original only, to the Director, Office of Acquisition and Property Management by not later than the 25th of July of each year. Negative reports are required and may be submitted in the form of a memorandum in lieu of GSA Form 1100.

[37 FR 5250, Mar. 11, 1972, as amended at 40 FR 5527, Feb. 6, 1975]

§ 114-47.302 Designation of disposal agencies.

§ 114-47.302-2 Holding agency.

The disposal authority conferred in the Secretary by this subsection has been delegated to heads of Bureaus and Offices in 205 DM 10.

§ 114-47.304 Advertised and negotiated disposals.

§ 114-47.304-8 Report of identical bids.

(a) The reporting requirements specified in FPMR 114-47.304-8 are applicable to all sales of Government-owned property made on a competitive basis whether competition is obtained through sealed bid, negotiation, auction, or spot bid procedures. They apply to:

(1) Program sales made pursuant to special statutes authorizing the Secretary of the Interior to sell specific real properties, and

(2) Sales of surplus real property made pursuant to the provisions of the Federal Property and Administrative Services Act of 1949, as amended.

(b) Reports on identical bids required by this subsection shall be submitted by the heads of Bureaus and Offices directly to the Attorney General in accord with FPMR 101-47.304-8. A copy of the transmittal letter and a copy of the abstract of bids shall be furnished to the Chief, Division of Property Management, Office of Acquisition and Property Management.

[40 FR 21954, May 20, 1975]

§ 114-47.304-12 Explanatory statements.

(a) Explanatory statements required to be submitted to the General Services Administration for transmittal to the committees of the Senate and House of Representatives pursuant to FPMR 101-47.304-12 shall be prepared following the outline shown in FPMR 101-47.4911. Such statements shall be submitted as attachments to a transmittal letter addressed to the Administrator, General Services Administration, Washington, D.C. 20405, prepared for the signature of the Assistant Secretary—Policy, Budget and Administration.

(b) The background and justification portion of this submission shall be a narrative statement fully showing that the property is in fact surplus (e.g., the goods and services produced by the property are no longer needed), and a complete justification both for the decision to sell at all, and to sell by negotiation rather than advertising.

(c) Twenty-two (22) mimeographed copies of such notices shall be submitted to the Assistant Secretary—Policy, Budget and Administration, twenty (20) of which are for submission to the General Services Administration and transmittal to the appropriate committees of the Congress. The letter transmitting each such notice to the Assistant Secretary—Policy, Budget and Administration, shall include any additional supporting data as may not be incorporated in the "background and justification" portion of the explanatory statement.

[35 FR 298, Jan. 8, 1970, as amended at 36 FR 17038, Aug. 27, 1971; 38 FR 8159, Mar. 29, 1973]

§ 114-47.304-50 Sales to Government employees.

In instances where this Department acts as disposal agency, surplus real property may be disposed of by sale, lease, or otherwise to Federal employees or their spouses only where all of the following conditions are met:

(a) The invitation for bids states the extent to which Federal employees are eligible to bid and requires Federal employees to identify themselves, their organization, and position, with similar information from spouses.

(b) Notice is given that no awards will be made to Federal employees or their spouses who might reasonably be expected to have information with regard to the property or its uses which is not readily available to members of the public, or who participated in the decision to dispose of the property, or in the sale itself.

(c) The sale is conducted under publically advertised, sealed bid procedures.

NOTE: Disposals under this paragraph apply only to actions taken pursuant to the Federal Property and Administrative Services Act of 1949, as amended. For disposals of public lands to employees of the Department, see 43 CFR Part 7.

§ 114-47.304-51 Noncollusive bids and proposals.

(a) Certificate of independent price determination: A certificate of independent price determination shall be required with each bid or offer for the purchase of real property, except where the price is fixed in advance of sale pursuant to law or regulation.

(1) The certificate of independent price determination clause contained in Condition No. 20 of the General Sale Terms and Conditions, Standard Form 114C, shall be included in all invitations for bids and requests for quotations on Government sales of real

property and shall be submitted with sealed bids and written quotations submitted in response thereto.

(2) Auction and spot bid sales: Bureaus and Offices conducting sales of Government property by the auction or spot bid methods shall include an appropriate provision in the sales notice which will put the successful bidder on notice that he will be required, as a condition of award, to sign a certificate to the effect that "the bid was arrived at by the bidder or offeror independently, and was tendered without collusion with any other bidder or offeror."

(3) The requirement for a certificate of independent price determination applies to sales of surplus real property and to program sales made pursuant to special statutes as referred to in IPMR 114-47.304-8(a).

(b) The authority to make the determination described in paragraph (d) of Condition No. 20 of the General Sale Terms and Conditions, Standard Form 114C, is vested in the head of Bureaus and Offices and may not be redelegated.

(c) Reporting suspected antitrust violations: Whenever any Bureau or Office has factual information leading it to believe or suspect that bids received in response to a sales offering evidence of collusion on the part of two or more bidders designed to eliminate competition, full particulars shall be submitted to the Solicitor for consideration and possible referral to the Attorney General. This submission should include a summary of the pertinent facts concerning the reported case and, in the case of a formally advertised sale, a copy of the Invitation for Bids, the Abstract of Bids, and the bid of bidder(s) suspected of irregular practices; the name of the successful bidder and reason why the award was made to him; and any other information available which might tend to establish possible violation of the antitrust laws. Reports required by this paragraph are in addition to and not in lieu of the identical bid reports required by IPMR 114-47.304-8.

(1) Reporting procedure: Reports of suspected antitrust violations should be transmitted to the Solicitor in the following format:

ASSISTANT ATTORNEY GENERAL,
Antitrust Division,
Department of Justice,
Washington, D.C. 20530.

DEAR SIR: We transmit to you a case where bids received in response to Invitation No. ——— for (item(s) description), to be sold (sale date), were opened by (selling bureau or office and location) on ————, 19—. Evidence of collusion or other conduct in violation of antitrust laws is herewith reported as follows:

Award was made to——————————.

(In the next sentence explain the method by which the successful bidder was selected, i.e., high bidder, etc., unless all bids were rejected and the sale effected by readvertisement or negotiation, in which case, furnish details.)

Sincerely yours,

Solicitor.

Enclosure:

(2) The following copies are required:

(i) Original on "Office of the Solicitor" stationery

(ii) Shadow copy to accompany the original on letterhead tissue

(iii) White surname box copy on letterhead tissue

(iv) White letterhead tissue copy to be marked "Docket Copy"

(v) White letterhead tissue copy to be marked "Director, Office of Acquisition and Property Management."

(vi) Other information copies as may be required by the Bureau or Office.

[35 FR 298, Jan. 8, 1970, as amended at 36 FR 221, Jan. 7, 1971; 40 FR 5527, Feb. 6, 1975]

§ 114-47.304-52 Compliance review.

The head of each Bureau and Office engaged in programs which involve the conduct of sales of Government property in the categories referred to in IPMR 114-47.304-8(a) shall install an appropriate monitoring system at the headquarters office level to ensure compliance with the provisions of IPMR 114-47.304-8 and 114-47.304-51. The monitoring system installed by each Bureau and Office will be subject to review by the Department's internal audit staff to determine its adequacy and effectiveness.

[36 FR 221, Jan. 7, 1971]

§ 114-47.308 Special disposal provisions.

[35 FR 10434, June 26, 1970]

§ 114-47.308-3 Property for historic monument sites.

The Director, Bureau of Outdoor Recreation, shall make all determinations and perform all other functions assigned to the Secretary in FPMR 101-47.308-3. The authority to exercise the authority conferred in the Secretary by FPMR 101-47.308-3 has been delegated to the Director, Bureau of Outdoor Recreation in 248 DM 1.

[36 FR 14741, Aug. 11, 1971]

§ 114-47.308-7 Property for use as public park or recreation areas.

The Director, Bureau of Outdoor Recreation, shall make all determinations and perform all other functions assigned to the Secretary in FPMR 101-308-7. The authority to exercise the authority conferred in the Secretary by FPMR 101-47.308-7 has been delegated to the Director, Bureau of Outdoor Recreation in 248 DM 1.

[36 FR 14741, Aug. 11, 1971]

Subpart 114-47.4—Management of Excess and Surplus Real Property

§ 114-47.401 General provisions of subpart.

[35 FR 299, Jan. 8, 1970]

§ 114-47.401-6 Interim use and occupancy.

Interior regulations governing the temporary use, by another Federal agency, of surplus real property are contained in IPMR 114-47.51.

[35 FR 299, Jan. 8, 1970]

Subpart 114-47.5—Abandonment, Destruction, or Donation to Public Bodies

SOURCE: 35 FR 29, Jan. 8, 1970, unless otherwise noted.

§ 114-47.501 General provisions of subpart.

§ 114-47.501-4 Findings.

(a) The findings specified in this subsection shall be documented in the form of an approved Report of Survey.

(b) For purposes of FPMR 101-47.501-4(b), a reviewing authority shall be the same as specified in IPMR 114-44.501-2.

§ 114-47.503 Abandonment and destruction.

§ 114-47.503-1 General.

The findings specified in FPMR 101-47.503-1 shall be made by an official not below a regional, area, or State Director.

§ 114-47.503-3 Abandonment or destruction without notice.

Findings justifying abandonment or destruction of real property without public notice shall be documented in the form of a Report of Survey approved by an appropriate reviewing authority. (See IPMR 114-44.501-2.)

Subpart 114-47.6—Delegations

§ 114-47.603 Delegation to the Department of the Interior.

(a) The authority conferred in the Secretary by FPMR 101-47.603 has been delegated to the heads of Bureaus and Offices in 205 DM 10.

(b) Available real property having an estimated fair market value of less than $1,000 shall be screened in accordance with the provisions of IPMR 114-47.203-1(b) before a determination of excess or surplus is made.

[37 FR 20543, Sept. 30, 1972]

Subpart 114-47.8—Identification of Unneeded Federal Real Property

SOURCE: 36 FR 22294, Nov. 24, 1971, unless otherwise noted.

§ 114-47.800 Scope of subpart.

This subpart prescribes basic policies and procedures for periodic review of real property in the custody of Bureaus and Offices of the Department to identify that which is unneeded, is underutilized, or is not being put to its optimum use. It implements Bureau of the Budget Circular No. A-2, revised, dated August 30, 1971, and FPMR 101-47.8.

(a) The provisions of this subpart are applicable to the following Federal real property holdings in custody of this Department, wherever located:

(1) Land acquired by purchase, condemnation, donation, lease, or other methods, except lands exempted as provided in IPMR 114-47.800(b);

(2) Withdrawn public domain land, except that used for National Park, National Forest, or wildlife refuge purposes. Refer also to 603 DM 1 which establishes Departmental policy relating to the review and restoration, in whole or in part, of withdrawn land no longer used or required for the programs for which withdrawn; and

(3) Buildings, and other structures and facilities acquired by purchase condemnation, construction, donation, lease, or other methods, including Government-owned buildings, structures, and facilities located on:

(i) Withdrawn public domain land;

(ii) Lands exempted from the provisions of this subpart by IPMR 114-47.800(b); or

(iii) Other than Government-owned land.

(b) This subpart does not apply to the following properties:

(1) Unreserved public domain land administered by the Bureau of Land Management;

(2) Rights-of-way or easements granted to the Government;

(3) Indian tribal and trust properties;

(4) Oregon and California revested lands (43 U.S.C. 1181a);

(5) Reconveyed Coos Bay Wagon Road Land Grant lands (43 U.S.C. 1181a);

(6) Land administered by the National Park Service, other than administrative sites outside of the established boundaries of a national park;

(7) Land on Indian reservations within consolidation areas approved by the Secretary of the Interior;

(8) Land within the National Wildlife Refuge System;

(9) Bankhead-Jones lands administered under a land conservation and utilization program in accordance with the Taylor Grazing Act of 1934 (48 Stat. 1269);

(10) Land reserved or dedicated for national forest purposes; and

(11) Real property which is to be sold or otherwise disposed of and which was acquired through foreclosure, confiscation, or seizure in settlement of a claim of the Federal Government, or through conveyance to the Federal Government in connection with an indemnity or loan insurance or guarantee program.

§ 114-47.802 Procedures.

(a) *Annual review by Bureaus and Offices.* Each Bureau and Office having jurisdiction over real property in the categories referred to in IPMR 114-47.800(a) shall conduct a systematic annual review of all such property to identify that which is unneeded, is underutilized, or is not being put to its optimum use. Every effort shall be made to effect partial disposals of real property whenever circumstances will permit economic separate disposal of the unneeded portion.

(1) In conducting the annual review, Bureaus and Offices shall be guided by the standards and guidelines set forth in FPMR 101-47.801, in addition to the disposal criteria prescribed in IPMR 114-47.802-50.

(2) In addition to the written record of the review of each individual installation required by FPMR 101-47.802(a)(2), a written descriptive listing of all properties identified as unneeded, underutilized, or not being put to optimum use shall be maintained as provided in IPMR 114-47.802-53(b).

(3) The head of each Bureau or Office or his designee is authorized to make the determination contemplated by FPMR 101-47.802(a)(3)(i)(B).

(i) The requirement found in FPMR 101-47.802(a)(3)(i)(B) for obtaining the approval of the appropriate GSA regional office before issuing permits or out-leases authorizing others to use temporarily unutilized property does not apply to:

(*a*) Permits or leases involving real property which is not subject to the provisions of Office of Management and Budget Circular No. A-2 or this Subpart 114-47.8. (See IPMR 114-47.800(b)), or

(*b*) Permits authorizing other Interior Bureaus or Offices to use property temporarily not being used by the holding Bureau.

(ii) Where a Bureau or Office administers large numbers of program leases such as agricultural leases, or grazing leases or permits on withdrawn public domain land, the appropriate regional office of GSA should be requested to approve the overall leasing program, thus obviating the need to request approval of each individual lease or permit as issued.

(b) *GSA survey.* (1) Bureaus and Offices shall cooperate fully with GSA officials conducting surveys of real property holdings under their jurisdiction in order to facilitate the overall objectives of the real property review program.

(2) Notifications of GSA survey findings received in the Office of the Secretary from the GSA Central Office in accordance with FPMR 101-47.802(b)(5), will be forwarded to the Bureau or Office having custody of the property involved. Referrals to Bureaus and Offices will include a request for their comments and recommendations in any cases where GSA recommends that specific properties should be reported excess.

§ 114-47.802-50 Disposal criteria.

The disposal criteria set forth in this subsection are provided for the use and guidance of Bureaus and Offices in conducting the review of real property holdings and achieving effective and economical use of such property. These criteria are in addition to the standards and guidelines prescribed in FPMR 101-47.801.

(a) *Property not utilized—no future use.* Property not presently used in the Bureau's program for which acquired and for which there is no foreseeable future need should be disposed of promptly by:

(1) Intrabureau transfer, transfer to other Interior Bureaus, declaration to GSA as excess, or disposal as surplus pursuant to authority delegated in 205 DM 10, or

(2) Reporting to the Bureau of Land Management in the case of unneeded withdrawn public domain land. (See IPMR 114-47.201-3.)

(b) *Property not presently utilized—known future need.* Property not presently being used, but for which a definite future program need exists should be retained: *Provided,* That the property will be put to its optimum use when the future program is undertaken. Reasonable efforts should be made to put property in this category into productive use during the period it would otherwise remain vacant or idle (see IPMR 114-47.802(a)(3)), either by:

(1) Permitting another Interior Bureau of Federal agency to use the property on an interim basis, or

(2) Interim leasing to non-Federal entities: *Provided,* That the holding Bureau or Office has specific statutory authority to lease temporarily unused property. (See 15 CG 96.)

(c) *Property not presently utilized—possible future need.* This pertains to property not presently used in the Bureau's program, but for which a possible future need exists. The less certain or farther away this possible future need is, the greater consideration must be given to disposal, particularly if the property is not unique and replacement property could be acquired later if the need materializes.

(d) *High value locations.* An essential Bureau activity being carried on at a valuable real estate site might not be using such site to its full economic advantage. For example, at the time of acquisition the site may have been in an outlying area, but may now be within the growing community. Such land is not unneeded or excess, since there is a continuing program need for the installation, but the present land could be sold for substantially more than the cost of suitable replacement facilities and the difference deposited in the Treasury.

(1) In these instances funds for replacement facilities must first be obtained through the normal budgetary processes, justified by the net gain to be realized.

(2) Once the replacement facilities are available, the old facilities should be disposed of as unneeded in the usual manner.

(e) *High cost facilities.* An essential Bureau activity may be performed in facilities which have such an unusually high annual operation and maintenance cost that replacement is justified. Some examples of this might be:

(1) The work is being performed at several separate locations, with a consequent loss of efficiency and higher costs.

(2) The work is being performed in several small buildings at the one site, and would significantly benefit from operations being consolidated in one building.

(3) The facility is unusually expensive to maintain, due to age or poor condition.

(4) The facility is so poorly planned or laid out, or so unsuitable for the particular type of activity being carried on, that excess costs are incurred.

(5) The facility is permanently underutilized, and is not susceptible to partial disposal through sharing, rental, sale, etc.

In all of paragraphs (e)(1) through (5) of this section and in similar instances, if the anticipated savings would so warrant, funds for replacement should be sought through the normal budgetary processes, justified by the net savings. Once the replacement facilities are available, the old facilities should be disposed of as unneeded in the usual manner.

(f) *Property used by another Federal agency under permit.* Property for which a future need was anticipated may be utilized by another Federal agency by permit from the holding Bureau. If reexamination of the anticipated need discloses that such need will not materialize, the Bureau having basic custody of the property should convey the property to the permittee Bureau or agency by formal transfer of accountability.

(g) *Property leased to non-Federal entities.* Property for which a future need was anticipated may have been leased on an interim basis to a non-Federal entity. If reexamination of the anticipated need discloses that such need will not materialize, the property should be disposed of, subject to the provisions of the lease.

§ 114-47.802-51 Funds and statutory authority.

There may be cases where it will be necessary to secure additional funds or specific legislative authority before disposal of high-value locations or high-cost facilities can be made and the necessary replacement facilities acquired. However, this circumstance must not delay the making of necessary surveys in order to identify properties in these categories or the initiation of specific proposals looking toward replacement. Proposals should be supported by estimates of replacement costs and ultimate net savings. In seeking replacement facilities:

(a) Such action as can be taken without additional funds or statutory authority should be initiated at the earliest practicable time;

(b) Consideration should be given to obtaining available and excess property presently held by other Interior Bureaus and other Federal agencies; and

(c) The appropriate regional office of the General Services Administration should be contacted to determine whether suitable excess replacement facilities are available for transfer or expected to become available within a reasonable time.

§ 114-47.802-52 Bureau implementation.

In those Bureaus having large and varied real property holdings, the general instructions in this chapter require further development for effective application within the Bureau, particularly with respect to the following:

(a) *Retention criteria.* Bureau implementation should include, to the extent possible, uniform retention criteria for specific properties for the guidance of field personnel conducting the annual review required by IPMR 114-47.802. The following is an example of retention criteria which might be developed.

It may be determined that a certain amount of land is needed to accommodate a particular type or size of facility, such as an administrative site, boarding school, day school, etc. Where this determination can be made the needed acreage should be specified and any held for this purpose in excess of that amount should be considered for disposal.

(b) *Partial disposals.* Bureau instructions should make clear that it is not enough for a field office official to determine, for example, that a program using 1,000 acres of land will continue to be carried on, but a further determination should be made as to the need to retain the entire 1,000 acres and whether or not a part of the acreage can be made available for other utilization or disposal. It might still be necessary to provide employee housing, but 50 units might now be adequate and 10 units released. The units of property to be released must, of course, be of a nature or so located that they are susceptible of economic separate disposal.

(c) *Underutilization and uneconomical utilization.* These situations may be common or typical of certain phases of the Bureau's program at some locations, and further criteria are needed to show either how they may be overcome or else why they must be accepted as a temporary condition due to the program requirements.

(d) *Program utilization.* There is a definite need for Bureau particularization on what constitutes program utilization, as distinguished from non-program but authorized utilization. There are many legitimate and necessary instances of utilization of real property for nonprogram purposes, usually of a temporary nature, but such use does not give it a program status. One rule of thumb might be whether program funds would be expended to purchase land or construct buildings for present uses of existing real property.

(e) *Inspection and field review.* The Bureau headquarters and regional staff members responsible for this aspect of real property management shall include checking the effectiveness of compliance and understanding at the regional and installation level, of this program, particularly on the completeness of both regional and installation reports, and the development of adequate techniques for the survey at the installation level.

§ 114-47.802-53 Intrabureau records.

The head of each Bureau having jurisdiction over real property shall issue instructions to provide that each office responsible for conducting the prescribed annual review of real property holdings shall:

(a) Maintain a written record of the review of each individual installation, which record will contain comments relative to each of the guidelines set forth in FPMR 101-47.801(b).

(b) Maintain a written descriptive listing of all properties or portions of properties identified during each annual review as unneeded, underutilized, or not being put to optimum use, whether or not disposal action is going to be taken on the properties.

§ 114-47.802-54 Annual report to the Department.

The head of each Bureau or Office having jurisdiction over real property shall prepare an annual report, as of the end of each fiscal year, summarizing the actions taken by the Bureau or Office to implement the provisions of this Subpart 114-47.8. The report will:

(a) Include consolidated reports for the Bureau in the form of Appendices I, II, III of this subpart.[1] These Appendices illustrate the format and the order in which the requested data are to be reported and should be followed to facilitate processing by the Department and transmittal to the Office of Management and Budget.

(b) Include in the memorandum transmitting Appendices I, II, and III, the following:

(1) A narrative statement describing, in general the actions taken during the fiscal year to comply with the provisions of this Subpart 114-47.8. The narrative shall include, but not necessarily be limited to:

(i) A description of the analytical methods used to determine that properties not listed in Appendices I and II are being put to optimum use.

(ii) Actions taken to strengthen procedures for meeting the objectives of the annual review program.

(iii) Actions taken by the head of the bureau and headquarters office staff to insure full compliance with Office of Management and Budget, General Services Administration, and Departmental regulations at all levels within the bureau.

---

[1] Filed as part of the original document.

(2) A description of any particular problems encountered by the Bureau in the management of real property.

(3) Recommendations as to actions which might be taken by the Property Review Board, the Office of Management and Budget, the General Services Administration, or the Department to improve the management of real property.

(c) Include, as attachments to the transmittal memorandum, two copies of new or revised manual or other instructions issued by the Bureau during the fiscal year. If none were issued, the report should so indicate.

(d) Be prepared, in duplicate, and transmitted to reach the Director, Office of Acquisition and Property Management by August 21 of each year.

[36 FR 22294, Nov. 24, 1971, as amended at 40 FR 5527, Feb. 6, 1975]

Subpart 114-47.51—Permits

SOURCE: 35 FR 302, Jan. 8, 1970, unless otherwise noted.

§ 114-47.5101 Scope of subpart.

This subpart prescribes basic policy and criteria for the granting of permits authorizing other Interior Bureaus or other Federal agencies to use real property in custody of Bureaus and Offices of the Department of the Interior.

§ 114-47.5102 Applicability.

The provisions of this subpart are applicable to all Federal real property in custody of this Department of the types referred to in paragraph (a) of this section, wherever located.

(a) Specifically, this subpart applies to utilization by permit of:

(1) Lands; buildings, structures and facilities (including those located on other than Government-owned land) acquired by purchase, condemnation, donation, construction, lease, or other methods; and

(2) Withdrawn public domain land;

(b) This subpart does not apply to use permits involving the following land and properties, but it does apply to Government-owned buildings, structures, and facilities located on such lands:

(1) Unreserved public domain;

(2) Rights of way or easements granted to the Government;

(3) Indian tribal and trust properties;

(4) Oregon and California revested lands (43 U.S.C. 1181a);

(5) Land administered by the National Park Service, other than administrative sites outside of the established boundaries of a national park;

(6) Land on Indian reservations within consolidation areas approved by the Secretary of the Interior;

(7) Land within the National Wildlife Refuge System; and

(8) Real property which is to be sold or otherwise disposed of and which was acquired through foreclosure, confiscation, or seizure in settlement, of a claim of the Federal Government, or through conveyance to the Federal Government in connection with an indemnity or loan insurance or guarantee program.

§ 114-47.5103 Definition of permit.

For purposes of this subpart, a permit is defined to mean the temporary authority conferred on one Government agency to use property under the jurisdiction of another Government agency.

§ 114-47.5104 Authority.

While no statutory authority is required to execute a permit authorizing the use of property by another Federal agency, such use may be granted only in the following instances:

(a) *Nonexcess property.* When it has been determined by the head of the Bureau or Office, or his designee(s), that there is a present or future program requirement for the property, and the proposed use by the requesting agency conforms to the acquisition and use provisions of Bureau of the Budget Circular No. A-2, Revised, dated April 5, 1967.

(b) *Excess or surplus property in process of disposal.* Excess or surplus real property may be made available for short term use by permit during the period it is being processed for further Federal use or disposal as provided in paragraphs (b)(1) and (2), of this section; *Provided*, That the requesting agency conforms to the provisions of Bureau of the Budget Circular No. A-2, Revised, dated April 5, 1967; *And provided further*, That such temporary use or occupancy will not interfere with, delay, or retard its transfer to another Federal agency, or disposal.

(1) Permits granting interim use of the following properties may be executed without the approval of the General Services Administration:

(i) Excess or surplus real property, including land with or without improvements, having an estimated fair market value of less than $1,000, and

(ii) Surplus improvements of any kind having an estimated fair market value of $1,000 or more to be disposed of without the underlying land. A permit may not be issued, however, until the surplus determination has been made by the General Services Administration.

(2) Permits granting interim use of the following properties may be executed only with the approval of the General Services Administration in each instance:

(i) Excess improvements of any kind, having an estimated fair market value of $1,000 or more, to be disposed of without the underlying land. In the event such improvements are subsequently determined by the General Services Administration to be surplus permits may be granted pursuant to IPMR 114-47.5104(b)(1)(ii).

(ii) Excess or surplus land, with or without improvements, having an estimated fair market value of $1,000 or more.

§ 114-47.5105 Limitations.

The head of each Bureau or Office should impose such additional limitations on the granting of use permits as he deems necessary for effective utilization and disposition of real property in the custody of his Bureau.

PART 114-50—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

Subpart 114-50.1—General

Sec.

114-50.100 Purpose.
114-50.101 Adjudication of claims.
114-50.102 Scope.
114-50.103 Applicability.
114-50.104 Notice of displacement.
114-50.105 Eligibility requirements.
114-50.105-1 Extension of eligibility.
114-50.106 Relocation costs treated separately from purchase price of real property acquired under Federal law.
114-50.107 Filing applications for benefits.
114-50.107-1 Time limitation for filing applications for benefits.
114-50.107-2 Forms used for filing applications for benefits.
114-50.108 Payments not to be considered as income.
114-50.109 Multiple occupancy.
114-50.110 Effects upon property acquisition.
114-50.111 Withholding from relocation payments.
114-50.112 Bureau and Office procedures.

Subpart 114-50.2—Definitions

114-50.200 Applicability.
114-50.201 Definition of terms.

Subpart 114-50.3—Uniform Real Property Acquisition Policy

114-50.300 Applicability.
114-50.301 Objectives.
114-50.302 Acquisition policy.
114-50.303 Statement of just compensation to owner.
114-50.304 Acquisition of improvements required to be removed from land acquired.
114-50.305 Appraisal.
114-50.306 Condemnation.
114-50.307 Uneconomical remnant.
114-50.308 Notice to move.
114-50.309 Temporary occupancy of property after acquisition.
114-50.310 Expenses incidental to transfer of title.
114-50.311 Notice to occupants upon initiation of negotiations.
114-50.312 State acting as agent for Federal program.
114-50.313 Federally assisted programs.

Subpart 114-50.4—Relocation Assistance Advisory Services

114-50.400 Relocation assistance advisory program.

Sec.
114 50.401 Organizational requirements.
114-50.402 Relocation plan.
114-50.403 Coordination of planned relocation activities.
114-50.404 Local coordination.
114-50.405 Coordination with project work.
114-50.406 Public information.
114-50.407 Contracting for relocation services.
114-50.407-1 Agreements with central relocation agency.
114-50.407-2 Contracting with private concerns.
114-50.407-3 Additional sources of advisory services.
114-50.407-4 Relocation services—Federally assisted programs.
114-50.408 Displaced person declining to accept relocation services.

Subpart 114-50.5—Assurance of Adequate Replacement Housing Prior to Displacement

114-50.500 Determination of availability of replacement housing.
114-50.501 Housing provided as last resort.
114-50.502 Loans for planning and other preliminary expenses for additional housing.

Subpart 114-50.6—Moving and Related Expenses

114-50.600 Eligibility.
114-50.601 Payment for moving expenses.
114-50.601-1 Allowable moving expenses.
114-50.601-2 Nonallowable moving expenses and losses.
114-50.602 Payment for expenses incured in searching for replacement business or farm.
114-50.602-1 Limitation.
114-50.603 Actual direct losses by business or farm operation.

Subpart 114-50.7—Payments in Lieu of Moving and Related Expenses

114-50.700 Eligibility.
114-50.701 Displaced occupant.
114-50.702 Displaced farm operations.
114-50.703 Displaced business.
114-50.703-1 Determination of loss of existing patronage to a business.
114-50.703-2 Businesses not eligible to receive "in-lieu" payments.
114-50.704 Displaced nonprofit organizations.
114-50.705 Average annual net earnings.

Subpart 114-50.8—Replacement Housing Payment for Homeowners

114-50.800 Eligibility.
Sec.
114-50.800-1 Owner-occupant of less than 180 days.
114-50.801 Elements included in replacement housing payment.
114-50.802 Computation of replacement housing payment.
114-50.802-1 Differential payment for replacement housing.
114-50.802-2 Interest payment.
114-50.802-3 Incidental expenses.
114-50.803 Statement of eligibility pending purchase of replacement dwelling.
114-50.804 Advance payment in condemnation cases.
APPENDIX I

Subpart 114-50.9—Replacement Housing Payment for Tenants and Certain Others

114-50.900 Eligibility requirements.
114-50.901 Notification to tenants.
114-50.902 Replacement housing payment.
114-50.903 Computation of replacement housing rental differential payment for tenants and certain others.
114-50.904 [Reserved]
114-50.905 Computation of replacement housing payment—purchasers.
114-50.906 Disbursement of rental replacement housing differential payment.

Subpart 114-50.10—Federally Assisted Programs

114-50.1000 Acceptance of real property furnished by a State incident to Federal program.
114-50.1001 Assurances—sections 210.
114-50.1002 Assurances—section 305.
114-50.1003 Compliance with section 210.
114-50.1004 Compliance with sections 301 and 302.
114-50.1005 Inability to provide assurances under section 305.
114-50.1006 Assurances not required.
114-50.1007 Monitoring assurances.
114-50.1008 Federal share of costs.
114-50.1009 Relocation assistance programs.
114-50.1010 Waiving of benefits.
114-50.1011 Appeal procedures.

Subpart 114-50.11—Administrative Review and Appeals

114-50.1100 Compliance reviews.
114-50.1101 Appeals.
114-50.1101-1 Appeal procedures.

Subpart 114-50.12—Annual Report

114-50.1200 General.
114-50.1201 Report contents.
114-50.1202 Submission.
APPENDIX I

Subpart 114-50.13—Mobile Homes

Sec.
114-50.1300 Scope of coverage.
114-50.1301 Moving and related expenses.
114-50.1302 Payments in-lieu of moving and related expenses.
114-50.1303 Replacement housing payments for mobile home owners.
114-50.1304 Eligibility of owner-occupant for rental differential payment.
114-50.1305 Replacement housing payments to tenants and certain others.
114-50.1306 Mobile home acquisition criteria.

Authority: 5 U.S.C. 301, and sec. 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894, 1900 (42 U.S.C. 4601, 4633).

Source: 38 FR 3965, Feb. 9, 1973, unless otherwise noted.

Subpart 114-50.1—General

§ 114-50.100 Purpose.

These regulations prescribe policies and procedures to insure the fair, equitable, and uniform treatment of persons displaced by Federal and federally assisted programs. They implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, hereinafter referred to as the Act, and General Services Administration Guidelines. All references in these regulations to sections or subsections are references to sections or subsections of the Act.

[40 FR 21854, May 19, 1975]

§ 114-50.101 Adjudication of claims.

Any claims made under these regulations and the Act shall be adjudicated on the basis of the regulations in effect when the claim was filed.

[40 FR 21854, May 19, 1975]

§ 114-50.102 Scope.

The regulations in this Part 114-50 apply to the programs of all Bureaus and Offices of the Department of the Interior. The geographical coverage includes the fifty (50) States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

§ 114-50.103 Applicability.

The provisions of the Act and the regulations in this part 114-50 apply to the acquisition (whether by purchase, condemnation, donation, exchange, or devise) of all real property for, and the relocation of all persons displaced by, programs and projects undertaken by Federal agencies, or by State agencies which receive Federal financial assistance for all or a part of the costs thereof. The Act and these regulations apply regardless of whether the real property is acquired by a Federal or State agency, or whether Federal funds actually contributed to the cost of the real property acquired for a Federal assisted project.

[43 FR 42753, Sept. 21, 1978]

§ 114-50.104 Notice of displacement.

Department of the Interior officials responsible for the administration of programs affected by the Act must ensure that a written notice of displacement is given to each individual, family, business, or farm operation to be displaced at least 90 days in advance of the date by which a move is required. Such notice shall be served personally or by certified (or registered) first-class mail. In the case of a federally assisted program, the State agency is responsible for ensuring that such notice is given.

§ 114-50.105 Eligibility requirements.

To be eligible for benefits under title II of the Act as a displaced person, either of the following conditions must be fulfilled:

(a) The person must have moved (or moved his personal property) as a result of the receipt of a written notice to vacate which notice may have been given before or after initiation of negotiations for acquisition of the property; or

(b) The subject real property must, in fact, have been acquired, and the person must have moved as a result of its acquisition (except in those instances covered by sections 217 and 219).

(c) All persons contacted by the negotiating Bureau or Office shall be advised that the benefits of the Act are not available to (1) persons who move prior to the initiation of negotiations if they have not received a notice to vacate the property, or (2) to persons who move subsequent to the initiation of negotiations when the Bureau or Office does not acquire the property or does not issue a notice to vacate the property.

[38 FR 3965, Feb. 9, 1973, as amended at 38 FR 7116, Mar. 16, 1973]

§ 114-50.105-1 Extension of eligibility.

In addition to the basic eligibility requirements specified in IPMR § 114-50.105, certain of the benefits provided by Title II of the Act are available as follows:

(a) Whenever the acquisition of, or notice to move from, real property used for a business or farm operation causes any person to move from other real property used for his dwelling, or to move his personal property from such other real property, such person is entitled to the benefits provided by sections 202(a), 202(b), and 205.

(b) When the head of the displacing agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services pursuant to section 205(c).

§ 114-50.106 Relocation costs treated separately from purchase price of real property acquired under Federal law.

Contracts or options to purchase real property under Federal law shall not incorporate provisions for making payments for relocation costs and related items in title II of the Act.

(a) Appraisers shall not give consideration to or include in their real property appraisals any allowances for the benefits provided by title II and section 303 of the Act.

(b) In the event of condemnation with a declaration of taking, the estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under title II of the Act.

§ 114-50.107 Filing applications for benefits.

All applications for benefits under the Act by a displaced person shall be submitted to the acquiring agency and be supported by such documentation as is required by the regulations in this Part 114-50. Bureaus and Offices shall make every effort to pay promptly any displaced person who makes application for authorized payments and may authorize advance payments in hardship cases. In the case of a project or program undertaken with Federal financial assistance, all applications shall be submitted to the State agency and be supported by such documentation as may be required by the State.

§ 114-50.107-1 Time limitation for filing applications for benefits.

Applications for benefits shall be made within eighteen (18) months from the date on which the displaced person moves from the real property acquired or to be acquired or the date on which the displacing agency makes final payment of all costs of that real property, whichever is the later date. The head of the Bureau or Office may extend this period upon a proper showing of good cause.

§ 114-50.107-2 Forms used in filing an application for benefits.

Bureaus and offices may utilize either Department of the Interior form D.I. 380, a-f and accompanying schedules, or GSA standard form 262, a-f and accompanying schedules, to document claims for reimbursement of expenses incurred by property owners or tenants as the result of Pub. L. 91-646 activities.

[43 FR 42753, Sept. 21, 1978]

§ 114-50.108 Payments not to be considered as income.

Bureaus and Offices shall advise all displaced persons that no payment received under title II of the Act shall be considered as income for the purposes of the Internal Revenue Code of 1954; or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the

Social Security Act or any other Federal law.

§ 114-50.109 Multiple occupancy.

Where two or more individuals, not families, living together in a single family dwelling are displaced from such dwelling, they shall be treated as one displaced person for purposes of entitlements for replacement housing benefits under sections 203 and 204 of the act. However, each individual displaced may receive a payment for actual reasonable moving expenses as authorized under section 202(a) of the act, and in the case of families, each family shall be considered separately.

[38 FR 24649, Sept. 10, 1973]

§ 114-50.110 Effects upon property acquisition.

(a) Nothing in the regulations in this Part 114-50 shall be construed as creating in any condemnation proceeding brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to January 2, 1971.

(b) The provisions of section 301 of the Act create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

§ 114-50.111 Withholding from relocation payments.

To insure equitable treatment, no displaced person is to have a relocation payment withheld or amounts deducted therefrom (including closing in escrow) to satisfy claims or obligations to others, including the acquiring agency. Moving costs and relocation payments are intended to lessen the impact of the forced relocation and to permit satisfactory relocation into decent, safe, and sanitary housing. Other legal remedies are available to the displacing Bureau or Office to satisfy the displacee's credit obligations rather than withholding amounts from relocation payments.

[40 FR 21854, May 19, 1975]

§ 114-50.112 Bureau and Office procedures.

The head of each Bureau and Office shall issue such procedural instructions, not inconsistent with the provisions of this Part 114-50, as he deems necessary to assure proper implementation and administration of the Act and these regulations.

[38 FR 3965, Feb. 9, 1973. Redesignated at 40 FR 21854, May 19, 1975]

Subpart 114-50.2—Definitions

§ 114-50.200 Applicability.

The terms used in this Part 114-50 shall have the meanings set forth in this Subpart 114-50.2. Heads of Bureaus and Offices may expand these definitions to provide greater clarity and successful implementation of assigned programs. Any such expansion, however, shall not result in a deviation in concept from the definitions set forth herein.

§ 114-50.201 Definition of terms.

(a) *The Act.* "The Act" means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), approved January 2, 1971.

(b) *Bureaus and Offices.* Means the following agencies of the Department of the Interior:

(1) Fish and Wildlife Service.

(2) Bureau of Mines.

(3) Bureau of Indian Affairs.

(4) Bureau of Land Management.

(5) Bureau of Reclamation.

(6) Bureau of Outdoor Recreation.

(7) National Park Service.

(8) Geological Survey.

(9) Bonneville Power Administration.

(10) Southeastern Power Administration.

(11) Southwestern Power Administration.

(12) Alaska Power Administration.

(13) Office of Water Research and Technology.

(14) Mining Enforcement and Safety Administration.

(c) *Business.* Any lawful activity, excepting a farm operation, conducted primarily:

(1) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) For the sale of services to the public;

(3) By a nonprofit organization; or

(4) Solely for the purposes of section 202(a) of the Act (see Subpart 114-50.6 of this part) for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays whether or not such display or displays are located on the premises on which any of the above activites are conducted.

(d) *Comparable replacement dwelling.* For the purposes of rendering relocation assistance by making referrals for replacement housing and for computation of the replacement housing payment, a comparable replacement dwelling is one which is decent, safe, and sanitary and:

(1) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing.

(2) Adequate in size to meet the needs of the displaced family or individual. However, at the option of the displaced person, a replacement dwelling may exceed his needs when the replacement dwelling has the same number of rooms or the equivalent square footage as the dwelling from which he was displaced.

(3) Open to all persons regardless of race, color, religion, or national origin, consistent with the requirement of the Civil Rights Act of 1964 and title VIII of the Civil Rights Act of 1968.

(4) Located in an area not generally less desirable than the one in which the acquired dwelling is located with respect to:

(i) Neighborhood conditions, including but not limited to municipal services and adverse environmental factors,

(ii) Public utilities, and

(iii) Public and commercial facilities.

(5) Reasonably accessible to the displaced person's place of employment or potential place of employment.

(6) Within the financial means of the displaced family or individual, and

(7) Available on the market to the displaced person.

NOTE: If housing meeting the requirements of the above definition is not available on the market, the head of a displacing agency may, upon a proper finding of the need therefor, consider available housing exceeding that basic criteria.

(e) *Decent, safe, and sanitary housing.* A decent, safe, and sanitary dwelling is one which is found to be in sound, clean, and weathertight condition, and which meets local housing codes. Bureaus or Offices shall be governed by the following criteria in determining if a dwelling unit is decent, safe, and sanitary. Adjustments may only be made in the case of unusual circumstances, or in unique geographical areas.

(1) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink; a cooking stove, or connections for same; a separate complete bathroom; hot and cold running water in both the bath and the kitchen; an adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes.

(2) *Nonhousekeeping unit.* A nonhousekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. If local codes do not include requirements relating to space and sanitary facilities, standards will be subject to the approval of the head of the Bureau or Office.

(3) *Water.* Has a continuing and adequate supply of potable safe water.

(4) *Egress.* Each building used for dwelling purposes shall have a safe means of egress leading to safe open space at ground level. Each dwelling unit in a multidwelling building must have access either directly or through a common corridor to a means of egress to open space at ground level. In multidwelling buildings of three stories or more, the common corridor on each story must have at least two means of egress.

(5) *Occupancy standards.* Occupancy standards for replacement housing shall comply with Bureau or Office approved occupancy requirements or comply with local codes.

(6) *Absence or inadequacy of local standards.* In those instances where there is no local housing code or a

local housing code does not contain minimum standards or the standards are inadequate, the head of the Bureau or Office may establish the standards.

(f) *Displaced person.* Any person who, on or after the effective date of the Act, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by any Bureau or Office of the Department of the Interior or with Federal financial assistance; and solely for the purposes of sections 202 (a) and (b) and 205 of the Act, as a result of the acquisition of or as the result of the written order of the acquiring Bureau or Office to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

(g) *Displacing agency.* A Bureau or Office in the case of a direct Federal project or a State agency, as defined in the Act, in the case of a project receiving Federal financial assistance.

(h) *Dwelling.* The place of permanent or customary and usual abode of a person. It includes a single family building; a one-family unit in a multifamily building; a unit in a condominium, or cooperative housing project; any other residential unit, including a mobile home.

(1) For the purpose of section 203 and 204 of the Act the term "dwelling" shall mean the place of permanent abode of a person and does not include seasonal or part-time dwelling units, such as beach houses, mountain, or other vacation cabins.

(i) *Economic rent.* The amount of rent a displaced tenant would have had to pay for a comparable dwelling unit in the area similar to the neighborhood in which the dwelling unit being acquired is located.

(j) *Family.* Two or more individuals who are related by blood, adoption, marriage, or legal guardianship who live together as a family unit. However, upon appropriate determination by the head of the Bureau or Office, others who live together as a family unit may be treated as if they were a family for the purpose of determining benefits under title II of the Act.

(k) *Farm operation.* Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(l) *Federal agency.* Any department, agency, or instrumentality in the executive branch of the Government (except the National Capital Housing Authority), any wholly owned Government corporation (except the District of Columbia Redevelopment Land Agency) and the Architect of the Capitol, the Federal Reserve banks and branches thereof.

(m) *Federal financial assistance.* A grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any annual payment or capital loan to the District of Columbia.

(n) *Financial means.* For the purpose of determining "financial means" of families and individuals in accordance with section 205(c)(3), a determination should be made as to the displaced person's ability to afford the replacement dwelling. (See also paragraph (d)(6) of this section.) In making this determination, the average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes and other reasonable recurring related expenses) which the displaced person will be required to pay, in general, should not exceed 25 percent of the monthly gross income or the present ratio of housing payment to the income of the displaced family or individual, including supplemental payments made by public agencies. Bureaus or Offices may issue regulations providing for determinations that 25 percent of monthly gross income for housing costs or the present ratio of housing payment to the individual income is or is not excessive to the other needs of the displaced family or individual, such as food, clothing, child care, medical expenses, etc. In these cases, the head of the Bureau or

Office shall establish criteria for determining the financial means of the displaced family or individual.

(o) *Heads of Bureaus and Offices.* The head of each Bureau or Office listed in paragraph (b) of this section, or his designee.

(p) *Initiation of negotiations.* The date the Bureau or Office makes the first personal contact with the owner or his representative and furnishes him with a written offer to purchase real property. Registered mail may be used in lieu of personal contact only where justified by geographic location and/or scale of negotiations.

(q) *Mortgage.* Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(r) *Owner.* A person who holds fee title, a life estate, a 99-year lease; or an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estates or interest, or who is possessed of such other proprietory interest in the property acquired as, in the judgment of the head of the Bureau or Office, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interests by devise, bequest, inheritance or operation of law, the tenure of ownership, not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

(s) *Person.* Any individual, partnership, corporation, or association.

(t) *State.* Any of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Island, and any political subdivision thereof.

(u) *State agency.* The National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

(v) *Available replacement housing.* The terms "available replacement housing" or "made available," shall mean that the displaced person has either, by himself obtained and has the right of possession of comparable replacement housing, or the Bureau or Office has offered him comparable replacement housing as defined in paragraph (d) of this section, which is available for immediate occupancy.

(w) *Nonprofit organization.* A corporation, partnership, individual, or other public or private entity, engaged in a business, professional or instructional activity on a nonprofit basis, necessitating fixtures, equipment, stock in trade, or other tangible property for the carrying on of the business, profession, or institutional activity on the premises.

[38 FR 3965, Feb. 9, 1973, as amended at 38 FR 7116, Mar. 16, 1973; 40 FR 21854, May 19, 1975; 43 FR 42753, Sept. 21, 1978]

Subpart 114-50.3—Uniform Real Property Acquisition Policy

§ 114-50.300 Applicability.

This subpart prescribes policies and procedures governing the acquisition of real property for Federal and federally assisted programs administered by the Department of the Interior.

§ 114-50.301 Objectives.

The objectives of the policies and procedures set forth in this subpart are to:

(a) Encourage and expedite the acquisition of real property by agreements with owners;

(b) Avoid litigation and relieve congestion in the courts;

(c) Assure consistent treatment for owners in the many Federal and federally assisted programs; and

(d) Promote public confidence in land acquisition practices.

§ 114-50.302 Acquisition policy.

To achieve the objectives set out in § 114-50.301, Bureaus and Offices shall, to the greatest extent practicable:

(a) Make every reasonable effort to acquire real property expeditiously by negotiation;

(b) Appraise real property prior to the initiation of negotiations;

(c) Give the owner or his designated representative an opportunity to accompany the appraiser during his inspection of the property; and

(d) Establish, prior to initiation of negotiations, an amount which is believed to be just compensation for the real property and make a prompt offer to acquire the property for the full amount so established.

(1) In no case will the amount established as just compensation be less than the approved appraisal of the estimated fair market value of the property.

(2) Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which the property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property.

§ 114-50.303 Statement of just compensation to owner.

Bureaus and Offices shall provide the owner of real property to be acquired with a written statement of, and a summary of the basis for, the amount established as just compensation. In the case of a partial taking, damages to the remaining real property, if any, shall be separately stated. The summary statement shall include the following:

(a) Identification of the real property and the estate or interest therein to be acquired;

(b) Identification of the buildings, structures, and other improvements considered to be part of the real property for which the offer of just compensation is made;

(c) A statement explaining the basis for the determination of just compensation and that such determination:

(1) Is based on the estimated fair market value of the property;

(2) Is not less than the approved appraisal of the property.

(d) A statement that any decrease or increase in the fair market value of the real property prior to the date of valuation caused by the public improvement or project for which the property is to be acquired, or by the likelihood that the property would be acquired for such improvement or project, other than that due to physical deterioration within the reasonable control of the owner, has been disregarded by the Bureau or Office in making its determination of just compensation for the property.

§ 114-50.304 Acquisition of improvements required to be removed from land acquired.

Whenever a Bureau or Office acquires any interest in real property it shall acquire at least an equal interest in all buildings, structures, or other improvements located thereon and which it requires to be removed from the real property or which it determines will be adversely affected by the use to which the real property will be put.

(a) If any buildings, structures, or other improvements, required to be acquired in accordance with this § 114-50.304, are the property of a tenant who has the right or obligation to remove them at the expiration of his term, the total just compensation for the real property, including the property of the tenant, shall be apportioned to the landowner and the tenant. The amount payable to the tenant for such improvements will be the greater of:

(1) The estimated fair market value of the property for offsite removal (salvage value), or

(2) The contributive value of the tenant's improvements to the value of the entirety.

(b) A payment may be made under paragraph (a) of this section, only in those cases where:

(1) The landowner disclaims all interests in the tenant's improvements, and

(2) The tenant, in consideration for such payment, assigns, transfers, and releases to the acquiring agency all his

right, title, and interest in and to the improvements.

(c) A tenant may reject payment under paragraph (a) of this section and elect to obtain payment in accordance with other applicable laws.

(d) Payment under paragraph (a) of this section shall not duplicate any payment otherwise authorized by law.

§ 114-50.305 Appraisal.

As a general rule, only one appraisal will be obtained on each tract, unless the Bureau or Office determines that circumstances require an additional appraisal or appraisals.

(a) Real property acquisition records shall show that the owner or his designated representative has been given an opportunity to accompany the appraiser during his inspection of the property.

(b) The head of each Bureau or Office shall establish, for all Federal and federally assisted programs under his jurisdiction, criteria for determining the qualifications of appraisers, and a system of review by qualified appraisers.

(c) Standards for appraisals used in Federal and federally assisted programs shall be consistent with the current uniform appraisal standards for Federal land acquisition published by the Interagency Land Acquisition Conference.

§ 114-50.306 Condemnation.

Condemnation proceedings, where required, will be instituted by the Bureau or Office. Bureaus and Offices shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his property.

(a) Bureaus and Offices in project planning shall take into consideration the possible liability for the payment of litigation expenses of a condemnee provided in section 304 of the Act.

(b) In no case will a Bureau or Office, in order to compel an owner to agree to a price to be paid for his property:

(1) Advance the time of condemnation;

(2) Defer negotiations or condemnation or the deposit of funds in court for the use of the owner; or

(3) Take any other coercive actions to force a price agreement.

§ 114-50.307 Uneconomical remnant.

In any case where acquisition of only part of a property will leave the owner with an uneconomical remnant, the acquiring Bureau or Office shall offer to acquire the entire property.

§ 114-50.308 Notice to move.

No owner or tenant who will become a displaced person will be required to surrender possession of his property before payment is made to him or deposited in the registry of the court. In all cases the owner or tenant shall be given at least 90 days' written notice of the date by which he is required to move from the acquired property.

§ 114-50.309 Temporary occupancy of property after acquisition.

If an owner or tenant is permitted to remain in possession of property for a short period after acquisition, the rental charged for such occupancy shall not be more than the fair rental value of the property to a short-term occupier.

§ 114-50.310 Expenses incidental to transfer of title.

Bureaus and Offices shall take actions necessary to insure that owners are reimbursed for expenses incurred incidental to conveyance of real property by the earliest date practicable. All Bureau or Office land purchase contract forms shall be amended to provide reimbursement to the vendor in an amount deemed by the Bureau or Office to be fair and reasonable for the following:

(a) Recording fees, transfer taxes, and similar expenses incidental to conveying the real property;

(b) Penalty cost for prepayment of any preexisting recorded mortgage entered into in good faith encumbering said real property; and

(c) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the acquiring agency, or the effective date of possession of such real property by the acquiring agency, whichever is the earlier.

§ 114-50.311 Notice to occupants upon initiation of negotiations.

The following information shall be furnished occupants of real property to be acquired at the time of initiation of negotiations, either in a brochure or such other medium as may be directed by the head of the Bureau or Office:

(a) *Owner-occupants of more than 180 days.* Simultaneous with the fair market value offer, an owner-occupant of more than 180 days shall be furnished:

(1) An explanation of his eligibility to receive a replacement housing payment not to exceed $15,000 and the manner in which the exact amount to which he will be entitled will be computed, and

(2) An explanation of the eligibility requirements to receive payments for replacement housing, increased interest costs, and incidental expenses, and of his option to rent replacement housing.

(b) *Owner-occupants of 90 days or more, but less than 180 days.* Simultaneous with the fair market value offer, an owner-occupant of 90 days or more, but less than 180 days shall be furnished:

(1) An explanation of his eligibility to receive a rental differential payment not to exceed $4,000 and the manner in which the exact amount to which he will be entitled will be computed, and

(2) An explanation of his option to receive a downpayment towards the purchase of replacement housing not to exceed $4,000, and incidental expenses to purchase replacement housing and the requirement therefor.

(c) *Tenants of 90 days or more.* Within 15 days after the initiation of negotiations for the purchase of real property, each tenant of 90 days or more shall be personally contacted and furnished in writing:

(1) The date of initiation of negotiations for purchase of the real property;

(2) An explanation of his eligibility to receive a rental differential payment not to exceed $4,000 and the manner in which the exact amount to which he will be entitled will be computed, and

(3) An explanation of his option to receive a down payment towards the purchase of replacement housing and incidental expenses, including the matching requirements therefor.

(d) *Owners and tenants of less than 90 days.* Within 15 days after the initiation of negotiations for acquisition of the property, each owner and tenant of less than 90 days shall be personally contacted and furnished in writing:

(1) The date of initiation of negotiations for purchase of the real property; and

(2) An explanation of his eligibility to receive a payment for moving expenses only.

[38 FR 3965, Feb. 9, 1973, as amended at 38 FR 7116, Mar. 16, 1973]

§ 114-50.312 State acting as agent for Federal program.

In the event that real property is acquired by a State agency at the request of a Bureau or Office for a Federal program or project, such acquisition shall, for purposes of the Act, be deemed an acquisition by the Bureau or Office administering such program or project.

§ 114-50.313 Federally assisted programs.

The head of each Bureau or Office administering federally assisted programs carried out by State agencies which will result in the acquisition of real property shall require that State agencies:

(a) Reimburse owners for necessary expenses as specified in sections 303 and 304 of the Act, and

(b) Comply with the provisions of sections 301 and 302 of the Act if compliance is legally possible under State law.

Subpart 114-50.4—Relocation Assistance Advisory Services

§ 114-50.400 Relocation assistance advisory program.

Whenever the acquisition of real property for a program or project undertaken by a Bureau or Office will result in the displacement of any person, the Bureau or Office shall establish a relocation assistance advisory program for the displaced person or persons. If the head of the Bureau or Office determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition he may offer such person relocation advisory services under this program. Where a federally assisted project is involved in the displacement, the State agency shall provide the advisory services. Each relocation assistance advisory program shall include such measures, facilities, or services as may be necessary or appropriate to:

(a) Determine the need, if any, of displaced persons, for relocation assistance;

(b) Provide current and continuing information on the availability, prices, and rentals, of comparable decent, safe, and sanitary sales and rental housing and of comparable commercial properties and locations for displaced businesses;

(c) Insure the availability of adequate replacement housing prior to displacement as prescribed in Subpart 114-50.5 of this part;

(d) Assist a person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(e) Supply information concerning Federal and State housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons;

(f) Provide assistance to the displaced persons in completing application forms for benefits under the Act; and

(g) Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

§ 114-50.401 Organizational requirements.

The head of each Bureau or Office engaged in programs which cause the displacement of persons shall insure that responsibility for administration of relocation assistance programs is properly assigned in accordance with the following:

(a) *Headquarters office.* An official at the Bureau or Office headquarters level shall be assigned responsibility for providing staff guidance and direction for administration of the Bureau's relocation programs.

(b) *Regional or comparable office level.* At least one official in each region, area, or State office where relocation occurs, shall be assigned the responsibility for providing relocation assistance. These officials may be responsible for one or more projects within the region or other geographical area where practicable and appropriate.

(c) *Local relocation office.* A local relocation office, properly staffed, should be established when it is determined that the volume of work or the needs of the displaced persons justify such an office. The determination to establish a local relocation office may be made only by the head of the Bureau or Office on an individual project basis. Local relocation offices, when established, should be reasonably accessible to public transportation or within walking distance of the project and should be open during hours convenient to the persons being displaced.

§ 114-50.402 Relocation plan.

In conjunction with a program or project proposal involving acquisition of real property, a determination must be made during the preauthorization planning phase whether the real property acquisition activities will result in the displacement of persons from their dwellings, businesses, or farm operations. Where land acquisition activities will cause such displacement, a relocation plan shall be developed prior to commencement of acquisition activities in accordance with procedures outlined in § 114-50.500. The relocation plan may be developed in two stages to meet relocation program requirements. The first stage, the preliminary plan would constitute a preauthorization study sufficient in scope and depth to provide essential program or project planning information. The second stage to be completed prior to commencement of acquisition activities, would entail a fully developed implementation plan. The implementation plan would incorporate, update, and expand upon the preliminary plan. The essential ingredients of each stage are as follows:

(a) Preliminary plan—shall include the following information as a minimum:

(1) An estimate of the number of individuals, families, businesses, farm operations, and nonprofit organizations which will be displaced.

(2) The availability of decent, safe, and sanitary replacement housing (both sale and rental) within the financial means of the individuals and families being displaced.

(3) The probable impact of all other relocation programs, whether federally funded, or not, on the availability of replacement housing.

(4) The estimated total cost, by category (moving expenses, replacement housing for homeowners, etc.), of payments to displaced persons.

(5) The estimated cost of administering required relocation services to displaced persons.

(6) Applicable State and local building restrictions (including minimum lot sizes, zoning regulations, water purity standards, septic and well requirements, utility connection requirements, etc.).

(b) Implementation plan—in addition to updating the above elements the plan shall include:

(1) An inventory of the characteristics and needs of individuals, families, businesses, farm operations, and nonprofit organizations to be displaced.

(2) An inventory of the currently available comparable replacement dwellings in sufficient detail to permit matching of data against the needs of the displaced persons.

(3) Consideration and development, as necessary, of a staged plan of acquisition of improved properties to facilitate assimilation of the displaced persons, businesses, farm operations, and nonprofit organizations into the surrounding community.

(4) Detailed information on the displacement and relocation activities of other Government agencies or private concerns.

(5) Standards to be applied in carrying out relocation operations.

(6) Detailed information on the measures and services to be provided displaced persons and businesses in the conduct of the relocation assistance program.

(c) Each relocation plan shall be:

(1) Coordinated with other Federal and State agencies and private concerns having relocation programs within the project area, to insure that the real estate market from which replacement housing will be obtained is capable of supplying the demands of all users of housing. (See also §§ 114-50.403 and 114-50.404); and

(2) Updated periodically to reflect current real estate conditions. When funds have been appropriated for commencement of real property acquisition, the relocation plan will be continuously updated and serve as a basis for accomplishing required relocation activities.

(3) Reviewed and approved either at the bureau headquarters office level, or by a bureau office assigned the responsibility to review all bureau relocation plans, prior to commencement of acquisition activities (e.g., development of property descriptions, title examination, appraisals, negotiation, etc.).

(4) Submitted (copy only) when approved, to the Assistant Secretary—Policy, Budget and Administration (PAM/PM).

(d) A more elaborate relocation plan may be required in instances where acquisition of real property for a program or project will result in the displacement of a substantial number of persons in a metropolitan area, particularly where low-or moderate-income persons are involved. In any such instances, bureaus and offices shall be guided by the relocation planning instructions promulgated by the Department of Housing and Urban Development in its Relocation Handbook (1371.1 rev.).

[43 FR 42756, Sept. 21, 1978]

§ 114-50.403 Coordination of planned relocation activities.

Where two or more Bureaus of the Department of the Interior plan displacement activities in a given community or project area, they shall coordinate such plans to insure the adequacy of available replacement housing and that displaced persons receive the maximum assistance available to them. Similarly, Bureaus and Offices shall communicate with other Federal agencies, and State and local agencies, contemplating displacement activities in the community or area for the purpose of planning relocation activities and coordinating available housing resources.

(a) Bureaus and Offices causing displacement shall:

(1) Consult with the appropriate field office of the Department of Housing and Urban Development within the jurisdictional area concerning the availability of housing;

(2) Provide the Housing and Urban Development field office with information regarding the projects which will cause displacement; and

(3) Designate at least one representative who will meet periodically with representatives of other Interior Bureaus and other Federal agencies causing displacement in the community to review the impact of their respective programs on the community or area.

(b) A directory of the Department of Housing and Urban Development Field Offices is available upon request.

[38 FR 3965, Feb. 9, 1973, as amended at 40 FR 21855, May 19, 1975; 43 FR 42753, Sept. 21, 1978]

§ 114-50.404 Local coordination.

To further insure maximum coordination of relocation activities in a given community or area, the displacing agency shall consult appropriate local officials prior to approving any proposed project in the community, consistent with the requirements promulgated by Office of Management and Budget Circular No. A-95 (Revised). The circular provides a central point of identifying local officials.

§ 114-50.405 Coordination with project work.

Bureaus and Offices shall coordinate relocation activities with project work, and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of relocation assistance programs.

§ 114-50.406 Public information.

The head of each Bureau and Office shall insure that the public receives adequate knowledge of the Bureau's relocation programs and that persons to be displaced are fully informed, at the earliest possible time, concerning relocation plans. In those areas where the number of persons to be displaced is such that it is not feasible to provide such information on a personal basis, the Bureau or Office shall afford all concerned persons an opportunity to discuss the relocation program at public meetings. Brochures describing the relocation program will be distributed at these meetings and to all other individuals and organizations, as appropriate.

(a) Discussions at public meetings shall include, as a minimum, the following:

(1) The availability of relocation assistance and services, eligibility requirements, and payment procedures;

(2) The estimated number of individuals, families, businesses, farm operations, and nonprofit organizations to be relocated;

(3) Specific plans for relocating all eligible displaced persons in suitable replacement housing; and

(4) The right of administrative review by the head of the Bureau or Office and to appeal to the Secretary of the Interior, as provided in Subpart 114-50.11 of this part.

(b) Where appropriate, Bureaus and Offices will, within 15 days after initiation of negotiations on a project, provide public announcements concerning:

(1) The relocation services to be provided;

(2) The payments which can be made; and

(3) The location where the Bureau or Office relocation brochures can be obtained.

(c) Public announcements may utilize any type of mass media which will provide full and adequate notice to the public.

§ 114-50.407 Contracting for relocation services.

Bureaus and Offices may enter into agreements with any Federal, State, or local agency, or contracts with private individuals or concerns for the purpose of carrying out relocation activities as provided in §§ 114-50.407-1 and 114-50.407-2. Each such agreement or contract shall require specific performance standards for the services to be provided. Any contract for such services must be executed and administered in conformance with Interior Procurement Regulations.

§ 114-50.407-1 Agreements with central relocation agency.

When a central relocation agency is available in the community or project area, the displacing agency shall consider entering into an agreement with such agency in an effort to reduce costs, prevent duplication, and promote uniform and effective administration of relocation assistance programs for displaced persons. The appropriate Regional/Area Office of the Department of Housing and Urban Development will provide information and assistance concerning these services, upon request.

§ 114-50.407-2 Contracting with private concerns.

Bureaus and Offices may provide relocation services through contracts with private individuals or concerns only when the following conditions exist:

(a) A central relocation agency is not available in the community or project area, or a central agency is available but does not have the capacity to provide the necessary services within the time required by the Bureau's program, and

(b) The Bureau or Office does not have the in-house capability to provide the services.

§ 114-50.407-3 Additional sources of advisory services.

The following additional sources of advisory services may be available in the project area and should be considered and utilized whenever practicable:

(a) *Veterans Administration (VA).* The Veterans Administration maintains a housing counseling service and displaced persons priority program for providing VA owned housing to displaced persons. These services may be made available to persons displaced by Federal and federally assisted programs and the local VA Loan Guarantee Office should be contacted.

(b) *Small Business Administration.* The Small Business Administration provides technical and loan counseling services for small businesses. A displaced businessman should be advised of these services.

(c) *Department of Agriculture.* The Department of Agriculture provides many services through its direct action farmer assistance programs, activities in rural nonfarm communities, and also urban communities of under 10,000 population. Coordination with the Farmer's Home Administration, Department of Agriculture is recommended when a farm operation is displaced.

(d) *Local governmental organizations.* Local governmental organizations and agencies may have rent supplement, public housing, or related relocation assistance programs which may be utilized to provide housing for the occupants displaced from a project. Local programs should be utilized where they exist. The use of local nongovernmental associations may also be used in helping a displaced person. Local real estate boards, apartment owners associations, home builders associations, and other organizations may provide information and services that will help obtain comparable replacement housing for displaced persons and suitable replacement sites for displaced businesses. Also, many States have veterans' organizations which offer services to veterans. The availability of such State organizations should be ascertained and utilized.

[40 FR 21855, May 19, 1975]

§ 114-50.407-4 Relocation services—Federally assisted programs.

State agencies receiving Federal financial assistance on a project may enter into agreements or contracts for the provision of relocation services in accordance with this Subpart 114-50.4. When a State agency elects to contract for these services, the Bureau or Office providing the Federal financial assistance shall take such action as is necessary to insure that the contract will facilitate a uniform and effective relocation program for the displaced persons. Any such contract shall include the following provisions, as a minimum:

(a) That payments or services shall be provided in accordance with the regulations in this Part 114-50;

(b) That records pertinent to the contract will be retained by the State agency for a period of at least 3 years and shall be available for examination by representatives of the Bureau or Office;

(c) Clauses required by regulations implementing title VI of the Civil Rights Act of 1964 (Pub. L. 88-353); and

(d) Any other provision as required by the Bureau or Office administering the federally assisted program or project.

[38 FR 3965, Feb. 9, 1973, as amended at 38 FR 7116, Mar. 16, 1973. Redesignated at 40 FR 21855, May 19, 1975]

§ 114-50.408 Displaced person declining to accept relocation services.

A displaced person is not required to accept the relocation services provided for his benefit. He may choose to relocate on his own and still be eligible for payments under the Act. However, the displaced person must meet the occupancy requirements for decent, safe, and sanitary housing and make application within the prescribed time limits to be eligible for a replacement housing payment.

Subpart 114-50.5—Assurance of Adequate Replacement Housing Prior to Displacement

§ 114-50.500 Determination of availability of replacement housing.

Bureaus and Offices shall not proceed with any phase of any project or authorize a State agency to proceed with any phase of a project which will cause the displacement of any person until it has determined, or received satisfactory assurances from the displacing State agency that, within a reasonable period of time prior to displacement, decent, safe, and sanitary housing as defined in § 114-50.201(e) will be available on a basis consistent with the requirements of title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284) and the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals being displaced. Such dwellings are to be equal in number to the number of, and available to, persons being displaced who require dwellings and reasonably accessible to their places of employment.

(a) *Support.* Determinations or assurances shall be based on a current survey and analysis of available replacement housing by the Bureau or Office or displacing State agency and shall take into consideration the competing demands on available housing. (See Subpart 114-50.4 of this part). Information to develop and maintain the survey may be available from the Department of Housing and Urban Development, the Veterans Administration, and real estate associations. The survey should:

(1) Be undertaken during the planning phase for each project,

(2) Be developed sufficiently to provide a means for determining whether or not the project or area is feasible from the standpoint of assuring that suitable replacement housing will be available to displaced persons and to support assurances that replacement dwellings are available to meet the criteria specified in this § 114-50.500, and

(3) Include a listing of the housing currently available.

(b) *Waiver.* The head of the Bureau or Office may waive the requirements of this § 114-50.500 for assuring the availability of replacement housing only in the case of an emergency or other extraordinary situation where immediate possession of real property is of crucial importance. Each such waiver shall be supported by appropriate findings and a determination of the necessity for the waiver which shall be documented in writing and made a part of the record.

[38 FR 3965, Feb. 9, 1973, as amended at 40 FR 21857, May 19, 1975]

§ 114-50.501 Housing provided as last resort.

In any case where the survey and analysis of available replacement housing required by § 114-50.500 discloses that adequate replacement housing is not available and cannot otherwise be made available, the head of the Bureau or Office may take action or approve action by a State agency to develop replacement housing as authorized by section 206(a) of the Act. Bureaus and Offices taking or approving such action for replacement housing will be guided by the criteria and procedures issued by the Secretary of Housing and Urban Development in 24 CFR Subtitle A, Part 43, Subpart A. A State agency taking such action should comply with the requirements and procedures of the Bureau or Office which provides the Federal financial assistance.

[38 FR 7116, Mar. 16, 1973]

§ 114-50.502 Loans for planning and other preliminary expenses for additional housing.

To encourage and facilitate the construction or rehabilitation of housing to meet the needs of displaced persons, the head of the Bureau or Office may provide loans to eligible borrowers for planning and other preliminary expenses authorized by section 215 of the Act. In implementing this paragraph, Bureaus and Offices will be guided by the criteria and procedures issued by the Secretary of Housing and Urban Development in 24 CFR Subtitle A, Part 43, Subpart B. A State agency providing such loans should comply with the requirements and procedures of the Bureau or Office which provides the Federal financial assistance.

Subpart 114-50.6—Moving and Related Expenses

§ 114-50.600 Eligibility.

(a) Any displaced person, as defined in Subpart 114-50.2 of this part, including one who conducts a business or farm operation, is eligible to receive a payment for moving and related expenses.

(b) A person who lives on his business or farm property may be eligible for both:

(1) Moving and related expenses as a dwelling occupant, and

(2) Moving and related expenses with respect to displacement from a business or farm operation.

(c) A displaced owner-occupant of a multifamily rental dwelling may be eligible for both:

(1) Moving and related expenses as a dwelling occupant, and

(2) Moving and related expenses with respect to displacement from a business.

§ 114-50.601 Payment for moving expenses.

Whenever the acquisition of real property will result in the displacement of any person, business, or farm operation, the displacing agency shall make a payment to such displaced person upon proper application for the following, or the "in lieu" payments authorized in Subpart 114-50.7 of this part.

(a) Actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(b) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the displacing agency; and

(c) Actual reasonable expenses in searching for a replacement business or farm operation.

§ 114-50.601-1 Allowable moving expenses.

(a) Actual reasonable expenses incurred by the displaced person in moving may be allowed as follows:

(1) Transportation of individuals, families, and personal property from the acquired site to the replacement site, not to exceed a distance of 50 miles, except where the displacing agency determines that relocation beyond the 50-mile area is justified.

(2) Packing and unpacking, crating and uncrating of personal property.

(3) Advertising for packing, crating, and transportation when the displacing agency determines that it is necessary.

(4) Storage of personal property for a period generally not to exceed 12 months when the displacing agency determines that storage is necessary in connection with relocation.

(5) Insurance premiums covering loss and damage of personal property while in storage or transit.

(6) Removal, reinstallation, reestablishment of machinery, equipment, appliances, and other items, including modifications as deemed necessary by the Bureau or Office and reconnection of utilities not acquired as real property.

(7) Property lost, stolen, or damaged (not caused by the fault or neglect of the displaced person, his agent or employees) in the process of moving, where insurance to cover such loss or damage is not available.

(8) Such other reasonable expenses as may be determined to be allowable by the Bureau or Office.

(b) Limitations:

(1) When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially, unless the Bureau or Office determines a greater amount is justified.

(2) When an item of personal property which is used in connection with any business or farm operation is not moved but sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost minus the proceeds received from the sale, or the estimated cost of moving, whichever is less.

(3) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the judgment of the Bureau or Office, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the case of moving of junk yards, stockpiled sand, gravel, minerals, metals, and similar type items of personal property.

(4) If the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to or in excess of the in place value of the display, consideration should be given to acquiring such display or displays as a part of the real property.

§ 114-50.601-2 Nonallowable moving expenses and losses.

The following expenses shall not be included in the moving expense payment required to be made by § 114-50.601:

(a) Additional expenses incurred because of living in a new location.

(b) Cost of moving structures or other improvements in which the displaced person reserved ownership, except as otherwise provided by law.

(c) Improvements to the Replacement Site.

(d) Interest on loans to cover moving expenses.

(e) Loss of goodwill.

(f) Loss of profits.

(g) Loss of trained employees.

(h) Personal injury.

(i) Cost of preparing the application for moving and related expenses.

(j) Payment for search cost in connection with locating a replacement dwelling.

(k) Such other items as the Bureau or Office determines should be excluded.

[38 FR 3965, Feb. 9, 1973, as amended at 44 FR 28329, May 15, 1979]

§ 114-50.602 Payment for expenses incurred in searching for replacement business or farm.

Actual reasonable expenses incurred by the displaced person in searching for a replacement business or farm may be allowed as follows:

(a) Actual travel costs.

(b) Extra costs for meals and lodging.

(c) Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed $10 per hour.

(d) In the discretion of the displacing agency, necessary broker, real estate, or other professional fees to locate a replacement business or farm operation under circumstances prescribed by the Bureau or Office.

§ 114-50.602-1 Limitation.

The total amount which a displaced person may be paid for searching expenses may not exceed $500, unless the Bureau or Office determines that a greater amount is justified based on the circumstances involved.

§ 114-50.603 Actual direct losses by business or farm operation.

Whenever the acquisition of or notice to move from, real property used for a business or farm operation causes any person to move from other real property used for his dwelling, or to move his personal property from such other real property, such person may receive payments for moving and related expenses as provided in § 114-50.601.

(a) When the displaced person does not move personal property he should be required to make a bona fide effort to sell it and should be reimbursed for the reasonable costs incurred.

(b) When the business or farm operation is discontinued, the displaced person is entitled to the difference between the fair market value of the personal property for continued use at its location prior to displacement and the sale proceeds, or the estimated costs of moving 50 miles, whichever is less.

(c) When the personal property is abandoned, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement or the estimated cost of moving 50 miles whichever is less.

(d) When personal property is sold and the business or farm operation reestablished, the displaced person is entitled to payment provided in IPMR § 114-50.601-1(b)(2).

(e) The costs of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

Subpart 114-50.7—Payments in Lieu of Moving and Related Expenses

§ 114-50.700 Eligibility.

Except as otherwise provided herein, a displaced person, including one who is displaced from a business or farm operation, who is eligible to receive payments for moving and related expenses under Subpart 114-50.6 of this part, may elect to receive payments in accordance with this Subpart 114-50.7 in lieu of payment for actual moving and related expenses.

§ 114-50.701 Displaced occupant.

A person displaced from a dwelling or a temporary or seasonally occupied housing unit who elects to receive the payments authorized by this paragraph, in lieu of payment for actual moving expenses, may receive a moving expense allowance, determined in accordance with a schedule established by the bureau or office, not to exceed $300, plus a dislocation allowance of $200. Where two or more individuals, not families, living together in single family housing are displaced from such housing they shall be treated as one displaced person for purposes of entitlements under this section.

[43 FR 42753, Sept. 21, 1978]

§ 114-50.702 Displaced Farm Operation.

A person displaced from his farm operation as defined in § 114-50.201(k), may elect to receive a fixed payment of not less than $2,500 nor more than $10,000 in accordance with the same criteria established for a person displaced from a business (see § 114-50.703). For a person to be entitled to this payment, a bureau or office must determine that:

(a) The farm operator has discontinued his entire farm operation at the present location or has relocated the entire farm operation, or

(b) In the case of a partial taking, the operator will be considered to have been displaced from a farm operation if:

(1) The part taken met the definition of a farm operation prior to the taking; or

(2) The taking caused the operator to be displaced from the farm operation on the remaining land; or

(3) The taking caused such a substantial change in the nature of the existing farm operation as to constitute a displacement.

NOTE.—If application of the above criteria obviously creates an inequity in any given case, the head of the bureau or office may approve the use of other criteria as determined appropriate.

[43 FR 42753, Sept. 21, 1978]

§ 114-50.703 Displaced business.

(a) A person displaced from his business, as defined in § 114-50.201(c) (1), (2), and (3), may elect to receive a fixed payment of not less than $2,500 nor more than $10,000 in lieu of actual moving and related expenses, *Provided*, That, the displacing Bureau or Office determines that, during the two taxable years prior to displacement, or during such other period as the head of the Bureau or Office determines to be more equitable, the business:

(1) Had average annual gross receipts of at least $2,000 in value; or

(2) Had average annual net earnings of at least $1,000 in value; or

(3) Contributed at least 33⅓ percent of the average gross annual income of the owner(s) from all sources, including welfare.

(b) Care must be exercised to ensure that a fixed payment is made only in connection with a bona fide business. No payment shall be made pursuant to this § 114-50.703 until after the displacing agency determines:

(1) That the business is not part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business, and

(2) That the business cannot be relocated without a substantial loss of existing patronage.

NOTE: If application of the above criteria obviously creates an inequity in any given case, the head of the Bureau or Office may approve the use of other criteria as determined appropriate.

[40 FR 21857, May 19, 1975, as amended at 41 FR 3086, Jan. 21, 1976]

§ 114-50.703-1 Determination of loss of existing patronage to a business.

The determination of loss of existing patronage to a business shall be made by the displacing agency only after consideration of all pertinent circumstances, including but not limited to the following factors:

(a) The type of business conducted by the displaced concern.

(b) The nature of the clientele of the displaced concern.

(c) The relative importance of the present and proposed location to the displaced business and the availability of a suitable replacement location for the displaced person.

§ 114-50.703-2 Businesses not eligible to receive "in lieu" payment.

Those businesses described in § 114-50.201(c)(4) are not eligible to receive a fixed payment in lieu of payment for actual moving and related expenses.

§ 114-50.704 Displaced nonprofit organizations.

A displaced nonprofit organization may elect to receive a fixed payment, in lieu of payment for actual moving and related expenses, in an amount equal to the average annual net earnings of the nonprofit organization, except that such payment shall be not less than $2,500 nor more than $10,000. However, no payment shall be made pursuant to this paragraph until after the Bureau or Office determines that:

(a) The nonprofit organization cannot be relocated without a substantial loss of its existing patronage. The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community, or clientele served or affected by the activities of the nonprofit organization.

(b) The nonprofit organization is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

§ 114-50.705 Average annual net earnings.

The term "average annual net earnings" as used in this subpart means the average net earnings of the business or farm operation, before Federal, State, and local income taxes, during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired, or during such other period as the displacing agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such period.

Subpart 114-50.8—Replacement Housing Payment for Homeowners

§ 114-50.800 Eligibility.

A displaced owner-occupant is eligible for a replacement housing payment not in excess of $15,000: *Provided,* That he meets both of the following requirements:

(a) Actually owned and occupied the dwelling from which displaced for not less than 180 days immediately prior to the initiation of negotiations (see § 114-50.201(p)) for the acquisition of the property, and

(b) Purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

§ 114-50.800-1 Owner-occupant of less than 180 days.

A displaced owner-occupant of a dwelling who is determined to be ineligible for a replacement housing payment under this Subpart 114-50.8 may be eligible for a payment under Subpart 114-50.9 of this part.

§ 114-50.801 Elements included in replacement housing payment.

The replacement housing payment authorized by this subpart is in addition to payments otherwise authorized by title II of the Act. It includes the following elements:

(a) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing agency, is necessary to purchase a comparable replacement dwelling as defined in § 115-50.201(d).

(b) The amount, if any, necessary to compensate the displaced person for increased interest costs, including points, which he is required to pay for financing the purchase of a comparable replacement dwelling. This amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage. A bona fide mortgage is one which was a valid lien on the acquired dwelling for not less than 180 days prior to initiation of negotiations.

(c) Reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

§ 114-50.802 Computation of replacement housing payment.

Bureaus and Offices shall determine the amounts necessary to compensate a displaced person for the replacement housing differential payment, increased interest costs, and incidental expenses in accordance with the following subparagraphs.

§ 114-50.802-1 Differential payment for replacement housing.

The replacement housing differential payment may be determined by either establishing a schedule or by using a comparative method.

(a) *Schedule method.* A schedule may be established reflecting reasonable acquisition costs for comparable replacement dwellings of the various types of dwellings to be acquired and available on the private market.

(1) The schedule shall be based on a current analysis of the market to determine an amount for each type of dwelling required.

(2) When more than one Bureau or Office of the Department of the Interior is causing displacement in a community or an area, they shall coordinate the establishment of a single schedule for replacement housing payments. Similarly, Bureaus and Offices shall cooperate with other Federal agencies causing displacement in the

community or area, if any, in the development of such a schedule.

(b) *Comparative method.* The price of a comparable replacement dwelling may be determined by selecting one or more dwellings most representative of the dwelling unit acquired which are available to the displaced person on the private market and which meet the definition of comparable replacement dwelling. A single dwelling shall only be used when additional comparable dwellings are unavailable.

(c) *Alternate method.* In the event that neither the schedule or comparative methods is feasible, the displacing agency should develop criteria for computing replacement housing payments. In the case of a Federally-assisted program, any alternate method proposed by a State agency should be subject to the prior concurrence of the Bureau or Office administering such program.

(d) The method of determining the replacement housing differential payment shall be selected by the acquiring agency.

(e) *Limitations.* The amount established as the differential payment for the replacement housing, plus the costs referred to in §§ 114-50.801(b) and 114-50.801(c), sets the upper limit of this payment.

(1) If the displaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the amount established for comparable replacement housing, the differential payment will be reduced to that amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(2) If the displaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment shall be made.

[38 FR 3965, Feb. 9, 1973, as amended at 40 FR 21858, May 19, 1975]

§ 114-50.802-2 Interest payment.

Displaced persons shall be compensated for increased interest costs, if any, only if the acquired dwelling was encumbered by a bona fide mortgage. The payment for any increased interest costs including points, incurred by the displaced person, shall be determined in consideration of the following:

(a) The payment shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the bona fide mortgage on the acquired dwelling, at the time of acquisition, over the remaining term of the mortgage on the acquired dwelling, reduced to discounted present value.

(b) The discount rate shall be the mean annual interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(c) A "bona fide mortgage" is one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations. All bona fide mortgages on the dwelling acquired by the displacing agency will be used to compute the increased interest cost portion of the replacement housing payment.

(d) The computation of the payment for increased interest costs will be based on the actual term of the new mortgage or the remaining term of the old mortgage, whichever is the lesser, and the computation will be based on the actual amount of the new mortgage or the unpaid amount of the old mortgage, whichever is the lesser.

(1) Seller's points are not to be included in the interest computation.

(2) The actual interest rate of the new mortgage will be used in the computation.

(3) Purchaser's points and/or loan origination fees will be added to the computed interest payment.

(e) However, the interest payment shall be based on the present value of the reasonable cost of the interest differential, including points paid by the purchaser, on the amount financed not to exceed the amount of the unpaid debt on the acquired dwelling for its remaining term.

(f) The format prescribed in Appendix I to this Subpart 114-50.8 shall be used in the computation of the interest payment.

[40 FR 21858, May 19, 1975]

§ 114-50.802-3 Incidental expenses.

(a) The payment for incidental expenses, i.e., the amount necessary to reimburse a displaced person for reasonable costs incurred by him incident to purchase of a replacement dwelling, shall be determined in consideration of such costs as:

(1) Legal, closing, and related costs including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation.

(2) Lenders, Federal Housing Administration, or Veterans' Administration appraisal fees.

(3) Federal Housing Administration application fee.

(4) Certification of structural soundness when required by lender, Federal Housing Administration, or Veterans' Administration.

(5) Credit report.

(6) Title policies or abstracts of title.

(7) Escrow agent's fee.

(8) State revenue stamps, or sale or transfer taxes.

(b) No fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, title I, Pub. L. 90-321, and Regulation "Z" (12 CFR Part 226) issued pursuant thereto by the Board of Governors of the Federal Reserve System.

[38 FR 3965, Feb. 9, 1973, as amended at 40 FR 21858, May 19, 1975]

§ 114-50.803 Statement of eligibility pending purchase of replacement dwelling.

Upon request of a displaced owner-occupant who has not yet purchased and occupied a replacement dwelling, but who is otherwise eligible for a replacement housing payment under this subpart, Bureaus and Offices shall furnish a written statement to any interested person, financial institution, or lending agency as to the displaced person's eligibility for a payment and the requirements which must be satisfied before such payment can be made.

§ 114-50.804 Advance payment in condemnation cases.

In a condemnation proceeding involving a declaration of taking an advance replacement housing payment may be made to a homeowner if determination of the acquisition price of the acquired dwelling will be delayed pending the outcome of condemnation proceedings. Inasmuch as the exact amount of the replacement housing payment cannot be ascertained until final adjudication of the condemnation suit, a provisional replacement housing payment may be determined based on the displacing agency's offer for the property acquired. No such payment may be made, however, unless the homeowner agrees, in writing, that:

(a) Upon final determination of the condemnation proceeding, the replacement housing payment will be recomputed on the basis of the acquisition price determined by the court:

(b) If the acquisition price as determined by the court is greater than the displacing agency's offer upon which the provisional replacement housing payment was based, the difference up to the extent of the replacement housing payment advanced, shall be refunded (including interest computed at the same rate as that paid by the agency on that portion of the acquisition price above the agency's offer) to the displacing agency; and

(c) If the acquisition price as determined by the court is less than the displacing agency's offer upon which the provisional replacement housing payment was based, the difference shall be paid to the homeowner.

[40 FR 21858, May 19, 1975]

APPENDIX I—FORMAT FOR COMPUTATION OF INTEREST PAYMENT

Required Information

1. Outstanding balance of mortgage on acquired dwelling .... $..........
2. Outstanding balance of mortgage on replacement dwelling .... $..........
3. Lesser of Line 1 or Line 2 .... $..........
4. Number of months remaining until last payment is due for mortgage on acquired dwelling .... $..........
5. Number of months remaining until last payment is due for mortgage on replacement dwelling .... $..........
6. Lesser of Line 4 or Line 5 .... $..........

APPENDIX I—FORMAT FOR COMPUTATION OF INTEREST PAYMENT—Continued

Required Information

7. Annual interest rate of mortgage on acquired dwelling .... ——%
8. Annual interest rate of mortgage on replacement dwelling (or, if it is lower, the prevailing annual interest rate currently charged by mortgage lending institutions in the general area in which the replacement dwelling is located) .... ——%
9. Mean annual interest rate paid on standard passbook savings accounts by commercial banks .... ——%
10. If applicable, any debt service costs on the loan on the replacement dwelling, such as points paid by the purchaser which are not reimbursable as an incidental expense .... $........

DEVELOPMENT OF MONTHLY PAYMENT FIGURES

A. Monthly payment required to amortize a loan of $—— (Line 3) in —— (Line 6) months at an annual interest rate of —— (Line 7) % .... $........
B. Monthly payment required to amortize a loan of $—— (Line 3) in —— (Line 6) months at an annual interest rate of —— (Line 8) % ¼ .... $........
C. Monthly payment required to amortize a loan of $—— (Line 3) in —— (Line 6) months at an annual interest rate of —— (Line 9) % .... $........

CALCULATION OF INTEREST PAYMENT

STEP 1

Subtract A from B:
  Monthly payment based on rate for replacement dwelling (B) .... $........
  Monthly payment based on rate for acquired dwelling (A) .... $........
  Result (difference) .... $........

STEP 2

Divide result (difference) of Step 1 by C (Carry to 6 decimal places):
  Result (difference) Step 1 .... $........
  Monthly payment based on savings rate (C) .... $........
  Result (quotient) .... $........

STEP 3

Multiply outstanding balance of mortgage on acquired dwelling by result (quotient) of Step 2: $........
  Outstanding balance (from Line 3) .... $........
  Result (quotient) of Step 2 .... $........

STEP 4

Add to result (product) of Step 3 any debt service costs on the loan on the replacement dwelling .... $........
Result (product) of Step 3, 1st mortgage .... $........
[1]Result (product) of Step 3, 2nd mortgage .... $........
[1]Sum or difference, as applicable .... $........
Debt service costs on loan on replacement dwelling (Line 10) .... $........
Amount of interest payment .... $........

---

[1] If there is more than one outstanding mortgage on an acquired dwelling, the discounted value of each mortgage must be determined. To do this, a separate computation is made for each mortgage through Step 3. A consolidated Step 4 is then completed.

[40 FR 21858, May 19, 1975]

Subpart 114-50.9—Replacement Housing Payment for Tenants and Certain Others

§ 114-50.900 Eligibility requirements.

(a) *Displaced tenant or owner-occupant of less than 180 days.* A displaced tenant (including a sleeping room occupant) or owner-occupant of a dwelling for less than 180 days, is eligible for a replacement housing payment if he actually occupied the dwelling as a permanent abode for not less than 90 days immediately prior to the initiation of negotiations (see § 114-50.201(p)) for acquisition of the property.

[40 FR 21859, May 19, 1975]

§ 114-50.901 Notification to tenants.

Bureaus and Offices shall notify the tenant or other occupant, in writing, of the date of initiation of negotiations.

§ 114-50.902 Replacement housing payment.

A displaced tenant or owner-occupant of less than 180 days who meets the eligibility requirements of § 114-50.900(a) is eligible for either:

(a) The differential payment necessary to enable him to lease or rent, for a period not to exceed 4 years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities,

Best Available Copy

and reasonably accessible to his place of employment, but not to exceed $4,000, or

(b) If he purchases and occupies replacement housing within 1 year from displacement, the amount necessary to enable him to make a downpayment, including incidental expenses, on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and commercial and public facilities, but not to exceed $4,000, except that if such amount exceeds $2,000, such person must equally match any such amount in excess of $2,000, in making the downpayment.

[40 FR 21858, May 19, 1975]

§ 114-50.903 Computation of replacement housing rental differential payment for tenants and certain others.

Bureaus and Offices shall establish the amount necessary to rent a comparable replacement dwelling. The amount may be determined either by establishing a schedule or by a comparative method.

(a) *Schedule method.* A rental schedule may be established for renting comparable replacement dwellings of the various types required and which are available in the private market. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years (the average monthly cost from the schedule) and subtracting from such amount 48 times the average month's rent paid by the displaced person in the past 3 months prior to initiation of negotiations, if such rent was reasonable, or 48 times the monthly economic rent for the dwelling unit, as established by the Bureau or Office, if the actual rent paid was unreasonable.

(1) The schedule should be based on a current analysis of the market to determine an amount for each type of dwelling required.

(2) When more than one Bureau or Office of the Department of the Interior is causing displacement in the same community or area, they shall coordinate with each other in choosing the method for computing the replacement housing payment and may use uniform schedules of average rental housing in the community or area. Similarly, Bureaus and Offices shall cooperate with other Federal agencies causing displacement in the community or areas, if any, in the establishment of the schedule.

(b) *Comparative method.* The average month's rent may be determined by selecting one or more dwellings most representative of the dwelling unit acquired, which is available to the displaced person and meets the definition of comparable replacement dwelling. The payment should be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years and subtracting from such amount 48 times the average month's rent paid by the displaced person in the last 3 months prior to initiation of negotiations, if such rent was reasonable, or 48 times the monthly economic rent for the dwelling unit, as established by the Bureau or Office, if the actual rent paid was unreasonable.

(c) *Exceptions.* The average month's rent paid by the displaced person may be established by using more than 3 months when deemed advisable. If rent is being paid to the displacing agency, economic rent shall be used in determining the amount of the payment to which the displaced person is entitled.

(d) *Alternate method of computing replacement housing rental differential payment.* When neither the schedule or the comparative method of computing the rental differential payment is feasible, the Bureau or Office shall develop criteria for computing the payment.

(e) *Limitation.* The amount of the rental replacement housing payment (within the $4,000 limitation) for tenants and owner-occupants who rent instead of purchase replacement housing, shall be computed by subtracting the economic rent of the acquired dwelling from the lesser of:

(1) The amount of rent actually paid for the replacement dwelling; or

(2) The amount determined by the displacing agency as necessary to rent a comparable replacement dwelling.

(f) The amount initially established and approved as the rental replacement housing payment shall not be adjusted to compensate for subsequent increases or decreases, if any, in the amount of rent actually paid by the displacee.

[38 FR 3965, Feb. 9, 1973, as amended at 40 FR 21859, May 19, 1975]

§ 114-50.904 [Reserved]

§ 114-50.905 Computation of replacement housing payment—purchasers.

(a) The amount of the downpayment shall be the lesser of:

(1) The amount that would be required as a downpayment for financing a conventional loan on a comparable dwelling; or

(2) The amount required as a downpayment for financing of a conventional loan on the replacement dwelling actually purchased.

To the amount determined pursuant to paragraph (a)(1) or (a)(2) of this section will be added the amount required to be paid by the purchaser as points and/or origination or loan services fee if such fees are normal to real estate transactions in the area, on the comparable dwelling or the replacement dwelling, whichever is the lesser.

[40 FR 21859, May 19, 1975]

§ 114-50.906 Disbursement of rental replacement housing differential payment.

The amount of the rental replacement housing payment, determined in accordance with § 114-50.903, shall be paid in a lump sum, except that it shall be paid in installments when this method of payment is requested by the displaced person.

[40 FR 21859, May 19, 1975]

Subpart 114-50.10—Federally Assisted Programs

§ 114-50.1000 Acceptance of real property furnished by a State incident to Federal program.

Whenever real property is acquired by a State agency and furnished as a required contribution incident to a Federal program or project, the Bureau or Office administering the program or project may not accept such property unless the State agency has made all payments and provided all assistance and assurances as are required of a State agency by sections 210 and 305 of the Act. The State agency shall pay the cost of such requirements in the same manner and to the same extent as the real property acquired for such project.

[40 FR 21859, May 19, 1975]

§ 114-50.1001 Assurances—section 210.

Bureaus and Offices shall not approve any grant to, contract, or agreement with, a State agency, under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of the Act, unless satisfactory assurances are received from the State agency that:

(a) Fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by Bureaus and Offices under this Part 114-50.

(b) Relocation assistance programs offering the services described in Subpart 114-50.4 of this part shall be provided to the displaced persons;

(c) A survey and analysis of the available replacement housing has been made in accordance with § 114-50.500 and that within a reasonable period of time prior to displacement, decent, safe, and sanitary replacement dwellings will be available to displaced persons in accordance with Subpart 114-50.5 of this part, and

(d) The affected persons will be adequately informed of the benefits available under title II of the Act, and the policies and procedures relating to the payment of such benefits.

§ 114-50.1002 Assurances—section 305.

Bureaus and Offices shall not approve any program or project or any grant to contract, or agreement with a State agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on or after the effective date of the Act, unless satisfactory assurances are received from the State agency that:

(a) In acquiring real property, the State agency will be guided, to the greatest extent practicable under State law, by the land acquisition policies set forth in Subpart 114-50.3 of this part.

(b) Property owners will be paid or reimbursed for necessary expenses as specified in sections 303 and 304 of the Act, and

(c) The affected persons will be adequately informed of the benefits available under title III of the Act and the policies and procedures relating to the payment of such benefits.

§ 114-50.1003 Compliance with section 210.

In all cases, State agencies must comply fully with the assurances required by section 210 of the act.

[40 FR 21860, May 19, 1975]

§ 114-50.1004 Compliance with sections 301 and 302.

A State agency's assurances under section 305 shall be accompanied by a statement indicating the extent to which it can comply with the provisions of sections 301 and 302. In the event a State agency maintains that it is unable to comply fully with any of the prescribed policies, its statement shall be supported by an opinion of the chief legal officer of the State agency. State agencies shall comply with sections 301 and 302 if compliance is legally possible under State law.

[40 FR 21860, May 19, 1975]

§ 114-50.1005 Inability to provide assurances under section 305.

If a State agency's assurances are accompanied by a statement that it is unable to comply fully with the provisions of section 305, the head of the Bureau or Office administering the Federally-assisted project involved may prescribe procedures setting forth the conditions under which the project will be approved.

[40 FR 21860, May 19, 1975]

§ 114-50.1006 Assurances not required.

If the federally assisted program or project will not result in either the acquisition of real property or the displacement of persons, a grant, contract, or agreement may be executed with the State agency without regard to such State agencies' ability or inability to provide the assurances required by sections 210 and 305.

[40 FR 21860, May 19, 1975]

§ 114-50.1007 Monitoring assurances.

Bureaus and Offices shall monitor the assurances provided by State agencies on a continuing basis to insure that federally assisted programs and projects are carried out in conformance with such assurances.

[38 FR 3965, Feb. 9, 1973. Redesignated at 38 FR 24650, Sept. 10, 1973]

§ 114-50.1008 Federal share of costs.

The cost to a State agency of providing the payments and assistance required by the regulations in this Part 114-50 shall be included as part of the cost of a program or project for which Federal financial assistance is available to the State agency.

(a) The State agency shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other project or program costs.

(b) No payment or assistance under section 210 or 305 shall be required or included as a program or project cost under this § 114-50.1008 if the displaced person receives a payment required by State law of eminent domain which is determined by the Bureau or Office to have substantially the same purpose and effect as would a payment under this paragraph, and to be part of the cost of the program or project for which Federal financial assistance is available.

(c) Bureaus and Offices may advance to a State agency the Federal share of the cost of any payments or assistance by the State agency pursuant to sections 206, 210, 215, and 305 of the Act, when they determine that such action is necessary for the expeditious completion of a program or project.

[40 FR 21860, May 19, 1975]

§ 114-50.1009 **Relocation assistance programs.**

State agencies receiving Federal financial assistance on a project which will result in the displacement of persons, shall provide relocation assistance advisory services to the displaced persons in accordance with the provisions of Subpart 114-50.4 of this part.

[38 FR 3965, Feb. 9, 1973. Redesignated at 40 FR 21860, May 19, 1975]

§ 114-50.1010 **Waiving of benefits.**

The following policy shall be observed in connection with those Federally-assisted projects which are funded in part from the Land and Water Conservation Fund:

(a) Whenever a State agency provides that the owner of a single-family residence may, at his option, elect to retain a right of use and occupancy for not less than six months from the date of acquisition of such residence and such owner elects to retain such a right, such owner shall be deemed to have waived any benefits under sections 203, 204, 205, and 206 of the act and for the purposes of these sections, such owner shall not be considered a displaced person as defined in section 101(6) of the Act. (See sec. 2, Pub. L. 93-303, approved June 7, 1974.)

(b) The above policy applies only to those acquisitions which occurred subsequent to June 7, 1974.

(c) Retention of a residence under a use and occupancy agreement must be compatible with the intended use of the project site. Moreover, the appraisal should properly reflect the effect such a retention of use has upon the property's fair market value.

(d) In no case shall a State refuse to pay relocation payments for homeowners who were allowed temporary occupancy while waiting for replacement property.

(e) An owner of a single-family residence who elects to retain a right of use and occupancy for not less than six months from date of acquisition of such residence shall be informed that any benefits to which he may be entitled under sections 203, 204, 205, and 206 of the Act will be deemed to have been waived as a result of such use and occupancy.

[40 FR 21860, May 19, 1975]

§ 114-50.1011 **Appeal procedure.**

Prior to approving any federally assisted project, heads of Bureaus and Offices administering federally assisted programs or projects which will result in the displacement of persons shall require the State agency to furnish a description of the appeal procedures that are available to such displaced persons, to assure that any person aggrieved by a determination as to eligibility for a payment authorized by the act or the amount of a payment, may have his application reviewed by the head of the State agency.

[38 FR 3965, Feb. 9, 1973. Redesignated at 38 FR 24650, Sept. 10, 1973 and 40 FR 21860, May 19, 1975]

Subpart 114-50.11—Administrative Review and Appeals

§ 114-50.1100 **Compliance reviews.**

The head of each Bureau or Office engaged in Federal or federally assisted programs which involve the acquisition of real property and/or the displacement of persons shall provide for such periodic review of the operations at regional and other field office levels as he deems necessary to insure proper implementation of, and full compliance with, the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the regulations in this Part 114-50.

§ 114-50.1101 **Appeals.**

All eligible relocatees shall be furnished a written notice of their right to appeal. Such notification may be provided by brochure if the right to appeal is adequately described therein.

§ 114-50.1101-1 **Appeal procedure.**

In Federal acquisition programs any dispute concerning a question arising under the act which is not disposed of by agreement shall be decided by the head of the Bureau or Office who shall reduce his decision to writing and mail a copy thereof to the displaced person. This decision shall be final and conclusive unless, within 30 days from date of mailing of such copy, the displaced person mails a written appeal addressed to the Director, Office of Hearings and Appeals, Department of the Interior, Washington, D.C., in accordance with the regulations in 43 CFR Part 4, Subpart G. The decision of the Office of Hearings and Appeals, shall be final and conclusive. In connection with any appeal to the Office of Hearings and Appeals, the displaced person may be afforded an opportunity to be heard and to offer evidence in support of his appeal, as provided for in 43 CFR Part 4, Subpart G.

Subpart 114-50.12—Annual Report

SOURCE: 43 FR 42754, Sept. 21, 1978, unless otherwise noted.

§ 114-50.1200 General.

Each bureau and office having responsibilities for Federal or federally assisted programs that come within the purview of Pub. L. 91-646 shall prepare and submit an annual report to the Assistant Secretary—Policy, Budget and Administration, on its activities related to programs established and authorized by the act.

§ 114-50.1201 Report contents.

The report shall consist of two parts.

(a) *Statistical protion.* This part of the report shall utilize GSA Form 2997, Annual Report on Relocation and Real Property Acquisition Activities.

(b) *Racial and ethnic information.* This information, required by title VI of the Civil Rights Act of 1964, Executive Order 11512 and other applicable Federal laws, shall be reported using the format appearing as appendix I to this subpart (formerly part III of appendix 1 to this subpart).

114-50.1202 Submission.

The annual report shall be prepared on a fiscal year basis and submitted (original only) to reach the Assistant Secretary—Policy, Budget, and Administration by not later than December 1 of each year.

APPENDIX I—RESIDENTIAL RELOCATION DISPLACEMENT STATISTICS

[Claimants displaced during fiscal year ——]

	Negro/Black		Spanish surnamed		American Indian		Asian American/ Oriental		All others		Total all groups	
	Owner	Tenant	Owner	Tenant	Owner	Tenant	Owner	Tenant	Owner	Tenant	Owner	Tenant
Under age 62												
62 and over												
Total												

[People displaced during fiscal year ——]

	Negro/ Black	Spanish surnamed	American Indian	Asian American/ Oriental	All others	Total all groups
Total						

*Report total number of people displaced.

Note: Under "Spanish surnamed" include persons of Puerto Rican, Mexican American Cuban Central or South American, or other Spanish descent. Under "Asian American/Oriental" include Chinese, Japanese and Korean. Under "All others" include white persons not of Spanish descent.

Best Available Cop

Subpart 114-50.13 Mobile Homes

SOURCE: 43 FR 42751, Sept. 21, 1978, unless otherwise noted.

§ 114-50.1300 Scope of coverage.

The regulations in this subpart apply to housing customarily constructed offsite (in whole or part), and moved on site for use (see § 114-50.201(x)). Regulations specifically addressing displacements from mobile homes are necessitated by the wide variety of possible ownership-rental situations. These guidelines provide a basis for uniform treatment of displaced persons. The National Park Service has developed an implementing set of guidelines for computation of relocation benefits for mobile home displacements that is recommended for use in benefit determinations.

§ 114-50.1301 Moving and related expenses.

Owners of mobile homes, or tenant-occupants of mobile homes who qualify as displaced persons, are eligible for actual reasonable expenses in moving their mobile home or its contents to a new location. The cost of moving a mobile home may include, inter alia, the cost of detaching and reattaching fixtures, appliances, and utilities.

§ 114-50.1302 Payments in-lieu of moving and related expenses.

(a) A person displaced from a mobile home site, who is eligible to receive payments for moving and related expenses under § 114-501.301, may elect, in lieu of actual moving expenses, to receive a moving expense allowance determined in accordance with a schedule (see § 114-50.700-1) not to exceed $300, plus a dislocation allowance of $200.

(b) Where two or more individuals, not families, live together in a mobile home, each individual displaced may receive a payment for actual reasonable moving expenses, or the in-lieu payment authorized in paragraph (a) of this section.

§ 114-50.1303 Replacement housing payment for mobile home owners.

A displaced owner of a mobile home who has occupied the mobile home on the site from which he is displaced for not less than 180 days immediately prior to initiation of negotiations, and who is otherwise eligible, may qualify for a total replacement housing payment not in excess of $15,000 consisting of:

(a) The amount, if any, which when added to the acquisition cost of the mobile home, is necessary to purchase a comparable replacement dwelling. This differential payment shall be computed in accordance with the following criteria:

(1) Where both the mobile home and the site are acquired, the payment shall be the amount, if any, which, when added to the acquisition cost of the acquired property is necessary to purchase a comparable conventional dwelling or a comparable mobile home and site (either replacement unit being decent, safe, and sanitary), whichever is less.

(2) Where only the mobile home site is acquired, the payment shall be the amount, if any, which, when added to the acquisition cost of the acquired property equals the amount the owner is required to pay for a comparable site. If the comparable site is unimproved, the amount shall include the estimated costs necessary to develop the site into a decent, safe, and sanitary location. This may include, inter alia, access roads, pad preparation, utility and sanitation hookups, and foundation construction.

(3) Where an acquired mobile home is located on a leased or rented site, the payment will be the amount, if any, which when added to the acquisition cost of the acquired mobile home, equals the lesser of:

(i) The amount the owner is required to pay for a comparable replacement dwelling; or

(ii) The amount necessary to purchase a comparable mobile home, plus the difference in the amount necessary to rent a comparable mobile homesite for a period of 4 years, and 48 times the monthly rent paid on the site acquire.

(4) The differential housing payment in paragraph (1), (2), and (3) above shall be based upon the amount actually paid by an owner for purchase of a replacement property if this

amount is less than the estimated cost of a comparable conventional dwelling, mobile home, or mobile home site.

(b) The amount, if any which is necessary to compensate the owner for increased interest costs to be computed in accordance with § 114-50.802-2 of this regulation.

(c) The amount, if any, which is necessary to reimburse the owner for reasonable costs incurred incidental to purchase of a replacement dwelling to be computed in accordance with § 114-50.802-3 of this regulation.

§ 114-50.1304 Eligibility of owner-occupant for rental differential payment.

An owner-occupant who has occupied the mobile home on the site from which he is displaced for at least 90 days immediately prior to negotiations, and who is otherwise eligible, is eligible for a replacement housing payment as a tenant, provided that he rents or purchases a decent, safe, and sanitary replacement conventional dwelling or mobile home. Computation of the amount, if any, which the owner-occupant is entitled to shall be in accordance with the following criteria:

(a) Where the owner-occupant elects to rent:

(1) And both the mobile home and the mobile home site are acquired from the owner-occupant, the differential payment shall be the difference, if any, between the amount necessary to rent a comparable mobile home and mobile home site for a period of 4 years, and 48 times the monthly economic rent of the mobile home and the mobile home site acquired;

(2) And only the mobile home site is acquired from the owner-occupant, the differential payment shall be the difference, if any, between the amount necessary to rent a comparable mobile home site for a period of 4 years, and 48 times the monthly economic rent of the site acquired;

(3) And a mobile home is acquired on a site rented by the owner-occupant of the mobile home, the differential payment shall be the difference, if any, between the amount necessary to rent a comparable mobile home and mobile home site for a period of 4 years, and 48 times the monthly economic rent of the mobile home and the actual rent of the homesite acquired. This amount may be applied to the rental of a conventional dwelling.

(b) Where the owner-occupant elects to purchase and occupy either a comparable replacement mobile home site or a comparable conventional dwelling within 1 year from displacement the replacement housing payment shall consist of the amount necessary to make a downpayment, including interest and incidental expenses, not to exceed $4,000, except that if such amount exceeds $2,000, such displaced person must match any amount in excess of $2,000 in making the downpayment.

§ 114-50.1305 Replacement housing payments to tenants and certain others.

(a) A displaced tenant of a mobile home who has occupied a mobile home for at least 90 days immediately prior to initiation of negotiations, and who is otherwise eligible, is eligible to receive either:

(1) A differential housing payment, not to exceed $4,000, to enable him to rent, for a period not to exceed 4 years, a decent, safe, and sanitary replacement dwelling, with the differential payment being the amount, if any, between the sum necessary to rent a comparable mobile home and mobile home site for a period of 4 years, and 48 times the actual monthly rent paid for the mobile home and the mobile home site acquired; or

(2) If, he purchases and occupies replacement housing within 1 year from displacement, the amount necessary to enable him to make a down-payment, including interest and incidental expenses, on the purchase of a decent, safe, and sanitary dwelling, but not to exceed $4,000, except that if such amount exceeds $2,000, such displaced person must equally match any such amount in excess of $2,000 in making the down-payment.

§ 114-50.1306 Mobile home acquisition criteria.

(a) Authority to acquire mobile homes as part of the real estate pursuant to section 302 of the Act may be exercised under the following conditions:

(1) Whenever the mobile home has been annexed to the realty in a fashion to itself be considered real property; or

(2) Whenever the mobile home cannot be moved without substantial injury to it or the realty upon which it is situated; or

(3) Whenever the mobile home fails to meet decent, safe, and sanitary dwelling standards either due to dwelling condition or family size, or

(4) Relocation of the mobile home is prohibited by zoning or other applicable governmental regulations, or prevented as area trailer parks will not accept the mobile home due to age, size, condition, etc.

(b) Determination of whether a mobile home constitutes realty or personality frequently must be objectively determined by reviewing the intention of the party through external evidence. The following factors have been held to evidence that the mobile home has retained its characteristic as personal property:

(1) Wheels and tires remain affixed to the carriage.

(2) Lack of permanent connection of utilities.

(3) Mobile home has been registered as a vehicle.

(4) Lack of landscaping or other permanent improvements (e.g. patios, foundations, etc.).

NOTE: Frequently mobile homes are placed on blocks or piers in lieu of a more substantial foundation. This may permit the retention of the under carriage. If hooked up to permanent utilities, the mobile home may still be considered realty.

(c) Where the evidence does not clearly indicate whether a mobile home is real or personality, the expressed intention of the owner should be given consideration in determining the status and disposition of the mobile home.

(d) Where a mobile home does not meet the criteria under paragraphs (a), (b), or (c) of this section and removal of the mobile home is required, a minimum notice of 90 days to remove said mobile home is required.

PART 114-51—PROVISION AND ASSIGNMENT OF QUARTERS AND FURNISHINGS

Subpart 114-51.1—Provision of Quarters

Sec.
114-51.100 Statutory authority.
114-51.101 Policy.
114-51.102 Determination of number, types, and sizes of housing units required.
114-51.103 Design standards.
114-51.104 Housing cost limitation.
114-51.104-1 Elements of costs chargeable to limitation.
114-51.104-2 Elements of cost not chargeable to limitation.
114-51.104-3 Requests for authorization to exceed cost limitation.

Subpart 114-51.2—Furnishings in Personnel Quarters

114-51.200 Scope of subpart.
114-51.201 Definitions.
114-51.202 Policy.
114-51.202-1 Housekeeping quarters in the United States.
114-51.202-2 Government housekeeping quarters outside the United States.
114-51.202-3 Non-Government housekeeping quarters outside the United States.
114-51.202-4 Transient and seasonal quarters.
114-51.202-5 Nonhousekeeping quarters.
114-51.202-6 Reduction of shipping weight allowances.
114-51.203 Selection of furnishings.

Subpart 114-51.3—Assignment of Quarters

114-51.300 Scope of subpart.
114-51.301 Assignment policy.
114-51.302 Required occupancy.
114-51.303 Assignment records.

AUTHORITY: 5 U.S.C. 301.

SOURCE: 37 FR 17391, Aug. 26, 1972, unless otherwise noted.

Subpart 114-51.1—Provision of Quarters

§ 114-51.100 Statutory authority.

General statutory authority for the provision of quarters to employees is contained in section 2 of Pub. L. 88-459 (78 Stat. 557). Whenever it is determined that conditions of employment or availability of quarters warrants such action, Bureaus are authorized to provide employees with Government-owned or leased quarters. The authority to make the determination that quarters must be provided has been delegated to heads of bureaus in 205 DM 10 and may not be redelegated.

§ 114-51.101 Policy.

The Government-wide policy governing the provision of quarters to employees is set out in Office of Management and Budget Circular No. 18, Revised, and shall be observed by all bureaus of the Department of the Interior. In general, this policy provides that employee housing shall not be provided by the Government, except where it is determined that the employees must live at the station to render necessary service or protection, or that adequate housing is not available in the area.

(a) Construction of Government-owned housing may be undertaken at a given location only when specifically authorized through the usual budgetary processes.

(b) Leased quarters may be provided employees at a given location only when the determinations contemplated by paragraph 2 of Office of Management and Budget Circular No. A-18, Revised, have been made by the head of the bureau and funds are available for this purpose. It must be kept in mind, however, that where housing is available for lease on the private market, it would be virtually impossible to find that the circumstances warranted the provision of housing, except to satisfy a short-term need.

§ 114-51.102 Determination of number, types, and sizes of housing units required.

Bureaus shall be governed by the applicable provisions of Office of Management and Budget Circular No. A-18, Revised, in determining the number, types, and sizes of housing units to be provided employees at a given location.

[38 FR 20617, Aug. 2, 1973]

§ 114-51.103 Design standards.

Employee housing units constructed by Bureaus and Offices of the Department of the Interior shall:

(a) Not exceed the following standards:

(1) Standard materials, millwork, equipment, and fixtures that are readily available at local supply centers will be used in all dwelling construction.

(2) Design will be simple with no features that increase building costs, such as irregularities in roof framing.

(3) Not to exceed one and a half baths.

(4) One stall garage in areas subject to deep snow or prolonged periods of below freezing temperatures, carports in warmer climates.

(5) Sun porches, enclosed patios, or similar features will not be provided.

(6) Floor area shall not exceed—two-bedroom dwellings, 1,250 square feet; three-bedroom dwellings, 1,300 square feet; exclusive of basement and garage space (or service and storage space in lieu of basement).

(7) No four-bedroom dwellings shall be permitted.

(8) Fireplaces will not be permitted except where essential for adequate heating.

(b) Be designed taking energy conservation into consideration as a prime design goal.

[39 FR 26288, July 18, 1974]

§ 114-51.104 Housing cost limitation.

Employee Housing provided by the bureaus and offices of the Department shall be subject to the following Monetary Limitations:

(a) *Construction of Government-owned housing.* (1) A maximum amount of $65,000 (regardless of the source of financing) may be expended for construction of single family employee housing units in the Continental United States, Alaska, Hawaii, and the Territories, including costs of engineering and design. For individual cost elements refer to §§ 114-51.104-1 and 114-51.104-2 to determine whether they are to be included in determining the above limitation.

(2) Any request for an exception to the above Monetary Limitation must

be submitted through the Director, Office of Acquisition and Property Management (PAM/PM) to the Interior Subcommittee, House Committee on Appropriations, for review and approval action in advance of the expenditure of any funds.

(b) *Utilization of Acquired Housing.* (1) Advance approval will be required by the Director, Office of Acquisition and Property Management prior to utilization, as Government employee housing, of any housing unit acquired after April 1, 1979, when the actual expenditure of Government funds for such housing exceeds $65,000, exclusive of the contributory value of the lot upon which it is located.

(2) Any request for approval shall include an approved D.I. Form 1871 (Quarters Justification) together with information as to the actual cost of the acquired property that provides a break down of the respective housing and lot values.

[44 FR 21267, Apr. 10, 1979]

§ 114-51.104-1 Elements of costs chargeable to limitation.

The following elements of cost will be charged against the cost limitation set forth in IPMR § 114-51.104:

(a) Adaptation of standard dwelling plans to a specific site. Revision or alteration of standard plans and specifications to reflect latest developments in economic construction and materials should be prorated to the dwellings to be constructed from the plans during the fiscal year.

(b) Preparation of necessary plans and specifications to accompany invitations to bid. This will include all costs incurred in providing the contracting officer with data that is to be included as part of the construction contract.

(c) Preparation of site development plans showing location of buildings and other facilities existing or to be installed on the site. These costs will be prorated to number of buildings both existing and to be constructed on the site.

(d) Contract or force account cost of construction of the dwelling including excavation for basement or foundation. Include all construction costs to build a dwelling according to the plans and specifications which accompany the bid or that are approved for force account.

(e) Garage or carport whether attached or detached.

(f) Grading, landscaping, walks, driveways, retaining walls, fences and subsurface drainage. If this work is to serve more than one building, prorate costs accordingly.

(g) Costs incurred in development of landscape plans. Prorate as in paragraph (f) of this section.

(h) Installation of public utilities from the lot line to the dwelling. Prorate as in paragraph (f) of this section.

(i) Cost of air conditioning units, including cost of installation.

[38 FR 20617, Aug. 2, 1973, as amended at 40 FR 20818, May 13, 1975; 44 FR 21267, Apr. 10, 1979]

§ 114-51.104-2 Elements of cost not chargeable to limitation.

The following elements of cost should not be charged against the housing cost limitation.

(a) General supervision by administrators. Indirect costs, such as payrolling, purchasing, fund accounting, etc.

(b) Revision of standard plans to meet standards specified herein.

(c) Preliminary investigations and field surveys necessary to determine feasibility, location, physical characteristics of the site, etc. This frequently involves consideration of several alternate sites. Includes preliminary engineering surveys and investigations and other costs incurred up to the point where final selection of a site is made.

(d) Cost of site.

(e) Cost of developing water and sanitary systems where public utilities are not available. This includes the drilling of wells and installation of equipment, and construction of sewer systems. Installation of a power plant where commercial power is not available would also be in this category.

(f) Removable and replaceable items, such as ranges, refrigerators, venetian blinds, storm doors and storm windows.

(g) Part-time services performed by regular field staff (other than full time technical specialists) in contract supervision or inspection during actual construction; that is, after award of contract or start of force account construction.

(h) Extension of public utilities to the lot line.

[38 FR 20617, Aug. 2, 1973]

§ 114-51.104-3 Requests for authorization to exceed cost limitation.

When it is determined that a dwelling cannot be constructed within the cost limitation set forth in IPMR § 114-51.104, a request for approval to exceed the limitation may be submitted for Departmental consideration.

(a) The reasons why it is necessary to exceed the limitation,

(b) The justification of need for the housing, including a statement as to why the housing is necessary at this time,

(c) A listing of any permanent Federal housing already located at the site,

(d) The number of bureau employees now located at the housing site,

(e) The contemplated increase in number of bureau employees at the particular location and,

(f) An explanation showing why existing housing is inadequate.

APPENDIX I

DEPARTMENT OF THE INTERIOR

———————————————

Bureau

DWELLING CONSTRUCTION COSTS

(SEPARATE FORM FOR EACH DWELLING)

LOCATION

State ——— Town ———————
Other location———————————

DESCRIPTION

Site: Purchased —— Other land (describe) —— Type and size of dwelling: No. of bedrooms ——— Net floor area (sq. ft.) ——— Basement: Full —— Partial —— None ——; Fireplace: Yes — No—
Garage: Attached —— Detached —— Basement —— Carport —— None —— Air conditioning: Yes — No —
Nearest source of contract-labor and materials ———— (town and state) Distance —— Miles

ESTIMATED COSTS

Engineering and Design —— Preparation of site development plan ———— Cost of dwelling ——— Cost of garage or carport —— Cost of air conditioning —— Cost of landscaping:
Landscape plans — Grading and leveling — Lawn, shrubs, trees —— Sidewalks (linear ft.) ————
Fencing —— Driveway, curbs (linear ft.) —— Retaining walls —— Sub-surface drainage —— Installation of utilities (lot line to dwelling) ————
Full-time technical specialists on inspection or supervision ————
Other applicable costs (identify) ————
TOTAL COSTS ——————————

(Attach sheet giving additional details with respect to distance from nearest source of labor and materials; comparative bid prices; if costly site preparation measures are needed; whether the work was advertised more than once, and any other item which it is felt should be more fully explained).

[38 FR 20618, Aug. 2, 1973, as amended at 40 FR 20818, May 13, 1975; 44 FR 21267, Apr. 10, 1979]

Subpart 114-51.2—Furnishings in Personnel Quarters

§ 114-51.200 Scope of subpart.

(a) This subpart prescribes policies and criteria governing the provision of furnishings in:

(1) Government-owned or leased personnel quarters under the jurisdiction of the Department of the Interior, wherever located and,

(2) Non-Government (privately leased) personnel quarters located in Alaska, Hawaii, and areas outside the United States.

§ 114-51.201 Definitions.

For purposes of this subpart, terms used herein shall have the following meaning:

(a) *Furnishings.* Furniture, equipment, and miscellaneous items necessary to provide a reasonable degree of livability in personnel quarters, but not including:

(1) Television sets, radios, and other pleasurable but unnecessary items and,

(2) Household goods such as, linen, cutlery, silverware, dishes, and kitchen utensils.

(b) *United States.* The 50 States and the District of Columbia.

(c) *Government quarters.* Housing units owned or leased by the Government for which the Government serves as landlord. These are categorized as follows:

(1) Transient and seasonal quarters—those quarters occupied by the same personnel for a period of 4 months or less.

(2) Nonhousekeeping quarters—those quarters provided to employees who live on a furnished room or dormitory basis, including barracks and bunkhouses.

(3) Housekeeping quarters—those quarters which include a kitchen as an integral part of each unit.

§ 114-51.202 Policy.

It shall be the policy of the Department of the Interior to provide furnishings in Government and non-Government quarters in accordance with the criteria set out in the following subsections.

§ 114-51.202-1 Housekeeping quarters in the United States.

Housekeeping quarters located in the United States generally shall be provided to employees "unfurnished," except that:

(a) Furnishings may be provided in Government quarters and in non-Government quarters located in Alaska and Hawaii, when determined to be advantageous to the Government.

(b) Furnishings may be authorized for Government quarters located in remote and highly inaccessible areas where difficulties in transportation and the length of normal tour of duty are such that it is more economical for the Government to provide furnishings. An example of this type of quarters might be a ranger station which is inaccessible to most motor transportation. Mere remoteness from populous areas is not enough to justify provision of furnishings. The following costs shall be considered in evaluating relative economies and the total thereof compared with the packing, crating, transportation, and other costs of moving personally owned furnishings which would be incurred if Government furnishings were not supplied:

(1) Cost of new furnishings.

(2) Delivery costs of new furnishings.

(3) Storage cost of furnishings not in use.

(4) Cost of moving furnishings in and out of the quarters.

(5) Cost of repairing furnishings.

(6) Cost of storing furnishings owned by occupants of furnished quarters (including related transportation cost) when such storage at Government expense is authorized by law.

(7) Cost of administering a "furnishings" program.

(c) Furnishings may be provided in Government quarters when deemed necessary because the employee occupying the quarters is required to accommodate or entertain visitors frequently as a part of his official duties.

(d) Furnishings may be provided in Government quarters which are normally occupied on a short-term basis (6 months or less) in connection with training, orientation, or other form of special duty assignment.

(e) Some furnishings may be provided in Government quarters when only specially designed or built-in furnishings can be used, such as in mobile homes.

(f) A cooking stove and refrigerator may be provided in all Government quarters.

(g) Deep freezers may be provided in Government quarters in remote and isolated locations where the climate and geographical location necessitate purchasing food in significantly larger than normal quantities. Such provision must be approved in advance by an official not below the chief administrative officer of the bureau.

(h) A washer and dryer may be provided in Government quarters if specifically approved in advance by an official not below the chief administrative officer of the bureau.

§ 114-51.202-2 Government housekeeping quarters outside the United States.

Government housekeeping quarters located outside the United States generally will be provided with furnishings, except that:

(a) Unfurnished quarters, or partly furnished quarters, may be provided at locations where assigned personnel are expected to remain on a long-term basis (4 or more years).

(b) Unfurnished quarters, or partly furnished quarters, may be provided at locations where it is determined, after giving consideration to factors of overall economy, equity, and morale, than an exception to the general rule of providing furnishings is clearly advantageous to the Government.

(c) Furnishings may be supplied in Government quarters occupied by locally hired personnel in the circumstances described in §§ 114-51.202-1(b) and 114-51.202-1(e).

§ 114-51.202-3 Non-Government housekeeping quarters outside the United States.

Furnishings may be provided in non-Government quarters at specific locations where it is determined, after giving consideration to factors of overall economy, equity, and morale, that the provision of furnishings is clearly advantageous to the Government.

§ 114-51.202-4 Transient and seasonal quarters.

Bureaus and offices will provide such furnishings and household goods as are necessary for this type of quarters, regardless of where located.

§ 114-51.202-5 Nonhousekeeping quarters.

Bureaus and offices will provide such furnishings and household goods as are necessary for this type of quarters, regardless of where located.

§ 114-51.202-6 Reduction of shipping weight allowances.

Inasmuch as the reduction of shipping weight allowances for transportation of furnishings, household goods, and personal effects is necessary to effectuate the savings contemplated by the policies set forth herein, bureaus and offices shall specifically provide for such reductions when furnishings are provided by the Government.

§ 114-51.203 Selection of furnishings.

The following criteria should be considered in the procurement of furnishings to be provided by the Government pursuant to this Subpart 114-51.2:

(a) Furnishings should be:

(1) Of good quality and within price ranges suitable to the proposed quarters occupancy,

(2) Of commercial types and grades which are reasonably compatible with personally owned items, and

(3) Appropriate for the climate and to the particular housing units to be equipped, and the general styling and materials should be consistent with those in common use in the locality, insofar as practicable.

(b) Consideration should be given to simplicity, interchangeability, adaptability to different room sizes, durability, ease of warehousing, maintenance, and general acceptability to persons of different tastes.

Subpart 114-51.3—Assignment of Quarters

SOURCE: 37 FR 20941, Oct. 5, 1972, unless otherwise noted.

§ 114-51.300 Scope of subpart.

This subpart sets forth basic policies for the assignment, to employees, of Government-owned or leased personnel quarters under the jurisdiction of the Department of the Interior, wherever located.

§ 114-51.301 Assignment policy.

Each Bureau having jurisdiction over Government-owned or leased personnel quarters should develop and make known to all its employees a quarters assignment policy with implementing procedures appropriate to the number of quarters involved and the requirements of the bureau's programs.

(a) Assignments of quarters to employees shall be made without regard to race, color, creed, or national origin.

(b) In general once quarters reserved for station officials and for employees required to reside at the station have been assigned, the remaining quarters should be equitably assigned on an objective basis with larger houses in terms of number of rooms going to larger families, and larger houses in terms of size of rooms and houses of higher quality going to higher salaried personnel.

§ 114-51.302 Required occupancy.

(a) *Statutory requirement.* (1) The following quotation from 5 U.S.C. 5911(e) provides that:

> The head of an agency may not require an employee or member of a uniformed service to occupy quarters on a rental basis, unless the agency head determines that necessary service cannot be rendered, or that property of the Government cannot adequately be protected, otherwise.

(2) The authority to make the determination that an employee must occupy Government quarters has been delegated to heads of Bureaus in 205 DM 10, with authority to redelegate.

(b) *Policy.* (1) Except in exceptional and usually temporary circumstances, the only justification for the construction or retention of Government-owned housing is the recognition of the fact that under the circumstances necessary service cannot be rendered or property protected otherwise. These circumstances often result in employees being required to live in remote and inconvenient locations, to forego the advantages of home ownership, and to adjust themselves to a camp-like or semipublic environment. The paramount requirement of the full discharge of management's responsibilities, however, makes it necessary to insure that once a substantial investment is made in such housing facilities that the United States is not deprived of the expected benefits through any disinclination on the part of employees to live at the place of their employment.

(2) Illustrative of some of the benefits which the Department receives and has a right to expect from such occupancy are:

(i) The immediate availability of trained manpower to respond to emergencies, such as outbreak of fires, canal breaks, storm damage, etc.

(ii) The presence of an adequate working force during the frequent periods in winter when the roads to refuges, reservations, parks, and construction projects are impassable.

(iii) Protection, guidance, information, and aid that may be given to the large numbers of the general public visiting Interior installations and parks, particularly those arriving or remaining after business hours.

(iv) The protection to the entire installation that is inherent in the knowledge by potential malefactors, such as vandals, arsonists, poachers, thieves, and out-of-season hunters, that many people are living on the premises around the clock and throughout the year.

(v) The protection and maintenance of the premises themselves requires that they be occupied and heated to prevent rapid deterioration.

(vi) The services that can be rendered by the continued availability of employees at all hours to the direct beneficiaries other than the general public of Interior programs, e.g., Indian families on reservations, irrigation farmers on reclamation projects, etc.

(3) Most employees already appreciate fully and understand that for the foregoing and additional reasons they are required to occupy Government housing for the convenience of the Government. However, to eliminate any misunderstanding on this matter, a written determination to this effect should be made a part of the record in every instance where such action should be taken to insure that the Government will not be deprived of such benefits at the election of the employee.

(c) *Appeals.* The affected employees should be notified in writing individually of any determinations affecting them, and also informed of their right to appeal such action through proper channels. In the consideration of such appeals, the fullest consideration will be given to the personal desires of the employee, subject only to the paramount requirements of the Government.

§ 114-51.303 Assignment records.

A record shall be kept at the installation level to reflect all housing assignments and periods of occupancy. Assignments to the designated tenants should be made in writing on a form which clearly sets out the rights and obligations of the tenant and the Government. One copy of the assignment form shall be left with the tenant, and at least one copy, signed by the tenant, should be retained by the assigning office. The form should, as a minimum, list the equipment provided; note existing damage to premises or equipment; state requirements on subletting, assignment, sharing, or conducting businesses on premises; termination of assignment and recapture of quarters; specify which party will service equipment, cut grass, remove snow, etc.; control painting and alteration; reserve right of Government to enter to make safety and maintenance inspections; and in general include information on any aspect of landlord-tenant relationship which the Bureau's experience has shown is likely to arise in quarters of the type or the location involved.

PART 114-52—ESTABLISHMENT OF QUARTERS RENTAL RATES

Subpart 114-52.1—General

Sec.
114-52.101 Scope of subpart.
114-52.102 Statutory authority.
114-52.103 Regulatory authority.
114-52.104 Statutory restriction.
114-52.105 Definitions.
114-52.106 Rental rate principle.
114-52.107 Application of modified principle of comparability.
114-52.108 Quarters in the territories and possessions.
114-52.109 Employees in leave status.
114-52.110 Workroom used as quarters.

Subpart 114-52.2—Surveys and Appraisals

114-52.201 Basic rent principle.
114-52.202 Survey and appraisal policies.
114-52.203 Determination of survey appraisal community.
114-52.204 Establishment of basic rental rates.
114-52.205 Quarters evaluation boards.
114-52.206 Establishment of charges for utilities and related services.
114-52.207 Establishment of charges for furnishings.
114-52.209 Periodic adjustments of basic rental rates and related charges.
114-52.210 Departmental quarters handbook (D.Q.H.).

Subpart 114-52.3—Adjustments to Basic Rental Rates

114-52.301 General.
114-52.302 Unusual transportation costs (U.T.C.).
Sec.
114-52.303 Adjustment for differences in amenities.
114-52.304 Invasion of privacy.
114-52.305 Excessive size or quality.
114-52.306 Inadequate size.
114-52.307 Lack of all-weather construction.
114-52.308 Maintenance of two households.
114-52.309 Limitation on allowable deductions.
114-52.310 Documentation and records.
114-52.311 Administrative review.
114-52.312 Adjustment for possessory interest tax payments.
114-52.313 Administrative relief.

Subpart 114-52.4—Implementation of New and Revised Rates

114-52.401 Effective date of new rates.
114-52.402 Effective date of revised rates.
114-52.403 Implementation of rental rate changes.
114-52.404 Rental period.

Subpart 114-52.5—Program Coordination

114-52.501 Intradepartmental coordination.
114-52.502 Interdepartmental coordination.

Subpart 114-52.6—Employees Participation and Appeals

114-52.601 Employee participation in rate setting processes.
114-52.602 Appeal procedures.

Subpart 114-52.7—Non-Federal (Private Party) Quarters Rentals

114-52.701 General.
114-52.702 Basic policy.
114-52.704 Interim rental of excess quarters.
114-52.705 Interim use pending future official use.
114-52.706 Lease terms and conditions.

AUTHORITY: 5 U.S.C. 501 and 40 U.S.C. 486(c).

SOURCE: 43 FR 36933, Aug. 21, 1978, unless otherwise noted.

Subpart 114-52.1—General

SOURCE: 38 FR 7460, Mar. 22, 1973, unless otherwise noted.

§ 114-52.101 Scope of subpart.

The regulations in this Part 114-52 apply to all Government-owned or leased personnel quarters rented in support of Federal programs, whether rented to employees of the holding Bureau, to employees of another Interior Bureau or other Federal agency, or to nonfederally employed tenants who are housed in order to facilitate the accomplishment of a Federal program. They apply to rental quarters in the 50 States, the District of Columbia, the territories and possessions, and Puerto Rico. These regulations do not apply to:

(a) Government-owned or leased quarters, custody of which has been transferred to a non-Federal entity pursuant to a written lease or contract authorized by law.

(b) Quarters, which under proper authority, are rented to the public for revenue pending future official use or disposal.

(c) Quarters provided employees on vessels.

§ 114-52.102 Statutory authority.

Public Law 88-459, approved August 20, 1964, 5 U.S.C. 5911, provides that quarters rental rates shall be based upon the reasonable value of the quarters to the employee in the circumstances under which provided, occupied, or made available.

§ 114-52.103 Regulatory authority.

Office of Management & Budget Circular No. A-45, revised, dated October 31, 1964, as supplemented by Transmittal Memorandums Nos. 1 & 2, establishes the basic regulations governing the setting of quarters rental rates, adjustments thereto, and charges for furnishings and utilities.

[40 FR 30483, July 21, 1975]

§ 114-52.104 Statutory restrictions.

Rental rates for quarters and charges for utilities may not be set so as to provide an inducement (a) in the recruitment or retention of employees or (b) to encourage the occupancy of available rental quarters. (See 5 U.S.C. 5536.)

§ 114-52.105 Definitions.

The terms used in this Part 114-52 are defined as follows:

(a) *Rental quarters.* All quarters owned by or leased to the Government which are supplied as an incidental service in support of Interior programs whether rented to Government employees, to contractors and contractors' employees, or to other persons provided housing incidental to the performance of the Department's programs.

(b) *Comparable housing.* Housing which is generally equivalent in size with the rental quarters, with the same number of bedrooms, and with generally equivalent amenities and facilities, including garage.

(c) *Private housing.* Housing rented on a "landlord" basis, with the rental rates reflecting the fair market value of the accommodations to the tenant. This is distinguished from housing rented on an "employer-employee" basis, for which other considerations may have influenced rental rates. Examples of housing which is not "private housing" within the meaning of these regulations and, which should not be used in rental rate surveys, are other federally owned housing, housing owned by States or their subdivisions, housing provided by private firms for their employees, parsonages, and caretakers' homes or apartments.

(d) *Established community.* A population center offering the following minimal community services on a year-round basis, or, alternatively, on approximately the same seasonal basis as the occupancy of the rental quarters under consideration, regardless of population size or other criteria:

(1) *Medical.* One physician and one dentist.

(2) *Educational.* Public elementary and high school (unless transportation is provided without charge to a county or district school). Public library, school library available to the public, or scheduled mobile library.

(3) *Shopping.* Groceries, drugs, clothing, hardware, and general household needs.

(4) *Religious.* Congregations of two faiths or denominations.

(5) *Public transportation.* Connection with at least one major town or city by common carrier.

(6) Minimal social, cultural, or entertainment facilities.

(e) *Nearby representative private community.* The nearest community to the rental quarters which offers sufficient private housing to form the basis of an adequate rental rate survey, together with the minimal community services set forth in IPMR 114-52.105(d). It must be a community which is not unreasonably affected by conditions of seasonal agriculture or tourism, population explosion, severe economic depression, or other conditions which may have created an inequitable rent structure in that community not shared by the general region in which the rental quarters are located.

(f) *Amenities.* Amenities include:

(1) Paved streets.

(2) Street lighting at least at intersections.

(3) Sidewalks.

(4) Lawns, trees, and landscaping.

(5) General attractiveness of the neighborhood.

(6) Community sanitation services.

(7) Reliability and adequacy of water safe for household use.

(8) Reliability and adequacy of electrical service.

(9) Reliability and adequacy of telephone service.

(10) Reliability and adequacy of fuel for heating, hot water, and cooking.

(11) Police protection.

(12) Fire protection.

(13) Unusual design features of the dwelling.

(14) Absence of disturbing noises on offensive odors.

(15) Standards of maintenance.

(g) *Basic rental rate.* The basic rental rate is the monthly rental value of the quarters determined in accordance with Subpart 114-52.2 of this part, before applying any deduction or additions. (Line 1, app. 2, Subpart 114-52.2 of this part.)

(h) *Economically homogeneous survey area.* A permanently defined geographic area within which the living costs and related economic conditions, including the rental rate structure for comparable private rental housing, are generally uniform. Such areas should be as large as possible to facilitate an adequate and efficient survey program. If possible, the survey area should conform to State or multi-State boundaries.

(i) *Reasonable value of quarters and facilities.* Means the net rental charge to the employee-tenant which reflects all relevant factors affecting the occupancy of government-owned or leased quarters. In addition to normal real property valuation factors, such as location and physical characteristics, the extent to which the property meets the specific housing requirements of the tenant and his/her family is also to be considered. Where quarters are either inadequate or excessive in size or quality, or subject to excessive invasion of privacy, the rental rate is adjusted to reflect reasonable value to that tenant. In rural areas, the determination process does not value the quarters in-situs but establishes the rental rate based upon the value of comparable housing in a nearby established or representative community. To alleviate hardships which may result from this approach, an administrative adjustment (unusual transportation cost) may be applied where warranted. "Reasonable value" in some instances may equal fair market value rentals of comparable housing in the vicinity. It should never exceed them.

[38 FR 7640, Mar. 22, 1973, as amended at 43 FR 36933, Aug. 21, 1978]

§ 114-52.106 Rental rate principle.

Basic rental rates and charges for utilities will be set at the rates prevailing for comparable private housing in the same general area in which the rental quarters are located. (See Subpart 114-52.2 of this part.)

§ 114-52.107 Application of modified principle of comparability.

The principle of comparability with private rental practice may be modified in the following circumstances:

(a) Where employees must occupy space for use as quarters which is generally unsuitable for that purpose, or where they must reside in quarters which are suitable only for particular types of occupancy, such as, rooming houses, bunkhouses, bachelor quarters, residence hotel-type structures, barracks-type structures, or guard and lookout cabins. In these circumstances, where no comparable rental data are obtainable or professional appraisals are not made, rental rates will be determined by the square footage occupied, at a rate equivalent to one-half the basic rental rate per square foot charged for the nearest adequate rental quarters of the same or any other Federal agency. Rates established in this manner apply only to the shelter rental, with a separate charge for any other facilities and services provided (such as water, heat, light, and furniture) at rates comparable to those in the area.

(b) Where quarters are occupied on a temporary or transient basis—normally for 60 days or less. Quarters so occupied will be charged for at rates equivalent to private transient quarters of comparable type and quality when available. Rates may be set on a nightly or weekly basis, or both. Where comparable private transient quarters are not available in the area, rates may be established by determining the reasonable monthly rental rate for the quarters and adding thereto an additional charge of 20 percent. The sum of these will be divided by 30 to determine the nightly rate, or by 4⅓ to determine the weekly rate.

§ 114-52.108 Quarters in the territories and possessions.

The general policies outlined in this Part 114-52 apply to quarters located in the territories and possessions. However, the method to be used in determining rates in each area requires the advance approval of the Office of Management and Budget. Where two or more Interior bureaus administer rental quarters in the same area, a coordinated method of determining rates shall be developed for Office of Management and Budget consideration.

(a) Proposals must demonstrate that the method to be used will be impartial and consistent for all rental quarters in the same area, and that rents and other charges will be set at the reasonable value of the quarters and other facilities.

(b) Original proposals outlining the method to be used in setting rates, or proposed revisions to existing methods, shall be submitted to the Assistant Secretary—Policy, Budget and Administration, for consideration and transmittal to the Office of Management and Budget.

§ 114-52.109 Employees in leave status.

Employees on leave, with or without pay, for 30 calendar days or less will continue to be charged for quarters. Employees on leave for more than 30 days may be permitted to vacate quarters and make them available for reassignment. Where the employee is to be separated at the end of a leave period, however, no charge should be made once the quarters are made available for reassignment.

§ 114-52.110 Workroom used as quarters.

(a) Where an employee is required to utilize alone, or with his/her family a workroom as quarters, a reasonable charge shall be made for use of the quarters. This charge should reflect the degree to which the space is suitable for occupancy. The rental charge, for a lack of private rental market comparables, shall be based upon the principle of an extension of comparability. Examples of facilities that could be subject to this provision are guard stations, lookout towers, one room cabins, observatories, etc.

(b) The above situations are distinguishable from those instances where only a room or small portion of a quarters unit is required for official business purposes. In the latter situation, the use of a portion of the quarters as an office, workroom, etc., is considered an intrusion into the living room, resulting in a loss of privacy, and an adjustment is made in the basic rental rate in accordance with § 114-52.304.

[43 FR 36934, Aug. 21, 1978]

Subpart 114-52.2—Surveys and Appraisals

§ 114-52.201 Basic rent principles.

(a) As provided in subpart 114-52.1 of this part, rental quarters, including trailer spaces, shall be rented at rates (and furnishings, utilities and related services charged for at rates) prevailing for comparable private housing and services in the same general area as where the rental quarters are located. Rental rates lower than those prevailing in the general area may not be charged for comparable housing, since this would be a form of employee subsidization specifically forbidden by statute, Comptroller General decisions and Office of Management and Budget regulations. Conversely, rental rates higher than those prevailing in the area should not be charged as the Department's purpose in providing quarters is not to profit as a landlord, but to advance its programs by housing its employees adequately.

(b) It is recognized, however, that the rental charge established under the rental valuation system promulgated under OMB Circular No. A-45, as revised, does not necessarily correspond to fair market valuation when required administrative adjustments are made to the basic rental rate. These adjustments are designed to provide a uniform basis for assessing differences in physical, economic, and social characteristics which may occur when Government housing is located in a remote location. The normal absence of private rental market comparables in such remote locations would make uniform rental rate establishment difficult, if not impossible, to achieve.

§ 114-52.202 Survey and appraisal policies.

There will be an appraisal or a regional survey conducted once every 5 years, or as otherwise appropriate (in accordance with the criteria set forth in § 114-52.209(b)) to establish the "reasonable value" of the rental charge for all departmental quarters meeting the definition of "rental quarters" as defined in section 5(a) of OMB Circular No. A-45, as revised, and supplemental OMB letter directives. Rental charges will not be established using rental rate surveys conducted by a quarters evaluation board.

(a) Appraisals—Only qualified appraisers will be used to conduct appraisals. Where outside professional fee appraisers are employed, their work product will be reviewed and approved by staff reviewing appraisers prior to approval by the appropriate bureau official of the rental charge.

(b) Regional surveys—Economically homogeneous area (E.H.A.). Surveys should, to the extent practicable, be undertaken by individuals knowledgeable as to real property valuation methods, and trained in E.H.A. data gathering procedures. Representatives from each bureau with a significant number of quarters located within the E.H.A. shall participate in the survey. The procedures to be followed are provided in the departmental quarters handbook (D.Q.H.).

(c) Real estate appraisal principles provide for adjustments between the subject and the private rental comparisons for time, location, lot size and physical characteristics. Location and physical characteristics are normally also considered when amenities adjustments are made by the quarters evaluation board. It is therefore essential that the appraiser identify all amenity factors considered in making adjustments so that they would not be duplicated by a quarters evaluation board. A quarters evalauation board need not be convened when the appraiser establishes the monthly rental charge (M.R.C.). The appraiser would in arriving at the M.R.C. necessarily consider all appropriate charges and adjustments.

(d) Appraisals or surveys shall include, in addition to a determination of net basic rental rates, a separately stated contributing value for each item of service or furnishings which the appraiser determines to be included in the private rentals surveyed. The purpose of separating any and all service or furnishing charges from the contract rental rates for the private rental sample units is to establish basic rental rates (B.R.R.) based upon true comparability. After the net basic rental rate (N.B.R.R.) is determined for each Government quarters, the appropriate charges for Government-provided services and furnishings shall be added in to determine the monthly rental charge (M.R.C.).

§ 114-52.203 Determination of appraisal-survey community.

The determination as to which community or area shall be used for appraisal-survey purposes shall be made in accordance with the following:

(a) Where rental quarters are situated within an established community, as defined in IPMR 114-52.105(d), or not more than 5 miles from the boundary of such a community, rental rates shall be set at rates prevailing for comparable private housing in that community, provided that a sufficient number of private rental housing units exist in the community to form the basis for an adequate survey. It is not necessary that there be numerous vacancies. Where rental rates are established by direct comparative techniques (appraisals), the forms to be used are found in the D.Q.H. in chapter IV.

(b) Where rental quarters are not situated as in paragraph (a) of this section, rental rates are to be established based upon the adjusted average of rental rates for comparable private housing in an economically homogeneous area (E.H.A.) as defined in IPMR 114-52.105(h), in which the rental quarters are located. For the procedures to follow in conducting an E.H.A. survey, refer to the D.Q.H., chapter IV.

§ 114-52.204 Establishment of basic rental rates.

Essentially, basic rental rates are to be established in comparison with existing private rental rates. However, agencies may employ the real estate concept of "rental value" when no rental properties are available for comparison. Bureaus and offices are authorized to establish basic rental rates based upon impartial recommendations arrived at by any of the means set forth below. Regardless of the means used, conformance with the basic principles set forth in OMB Circular No. A-45, as revised, and 114-52 is required.

(a) Professional staff appraisers—Bureaus and offices are encouraged to use professional staff appraisers to recommend basic rental rates (including separately stated charges for Government-furnished utilities, services and furnishings).

(1) A staff appraiser may estimate the "rental value" only under the circumstances outlined above. A staff appraiser may be used to recommend to a quarters evaluation board, or to the appropriate approving official, the charges deemed appropriate for quarters, utilities, related services, and furnishings provided by the Government. A staff appraiser may not be used to recommend rates at the location where his own quarters are situated.

(2) Appraiser qualifications—Quarters rental appraisals are to be conducted only by qualified staff personnel with requisite real estate appraisal experience and/or training. Those bureaus and offices without appraisal staffs should arrange to have their quarters rental evaluations handled by another bureau, either directly, or in a review capacity where outside appraisers are used.

(b) FHA appraisers—Agencies may utilize Federal Housing Administration (FHA) appraisers to conduct individual quarters rental rate appraisals.

(1) The policies and procedures governing use of FHA appraisers is spelled out in the Department of Housing and Urban Development Handbook 4150.1 (chapter 7, section 16), a copy of which appears as appendix X in the D.Q.H.

(2) To insure that all FHA appraisals are performed in a satisfactory manner, any bureau or office desiring to use this method to establish rental rates shall submit its proposal to the Director, Office of Acquisition and Property Management (PAM/PM) for consideration and referral to the Washington, D.C., headquarters of the Federal Housing Administration.

(3) Rental rate appraisals by FHA shall be documented using the Department of the Interior quarters appraisal form. See D.Q.H. appendix VIII for the required format.

(c) Outside professional fee appraisers—The use of professional fee appraisers is governed by the following conditions:

(1) Appraisal services will be obtained in accordance with the requirements of the Interior procurement regulations subpart 14-4.52 and this subpart 114-52.2.

(2) Fee appraisers will be required to use the departmental quarters appraisal form to document their valuation estimates.

§ 114-52.205 Quarters evaluation boards.

(a) Where the appraiser does not determine the net monthly rental charge for each affected quarters, a quarters evaluation board may be employed to determine the monthly rental charges. Quarters evaluation boards, appointed in accordance with bureau procedures, shall in such instances recommend to the appropriate approving official the adjustments and charges to be made to the basic rental rate as determined by appraisal or regional survey. Each board shall be comprised of Government employees. As a general rule, membership on each board should be limited to three employees, except where joint boards are concerned, a larger number may be expedient. Employees occupying rental quarters at a given location or subordinates of such occupants, may not serve on the quarters evaluation board appointed to recommend rental rates at that location.

(b) Tenant participation in rental rate determinations. Bureaus and offices are encouraged to fully inform tenants at each Government installation as to the actions taken during the course of the rental survey. Ideally this would include both presurvey and postsurvey meetings with all tenants, or if impractical, with a tenant committee. The meetings provide and excellent opportunity to insure tenant understanding of the ratesetting process. Care must be taken, however, not to permit tenant involvement in the actual rental survey determinations, such as selection of comparable private rental housing, determination of amenity adjustments, etc. This would not prevent a tenant committee from being shown the private housing units that had been relied upon by the appraiser in reaching his rental rate determinations. However, no person may participate in any element of the rental ratesetting process who would be directly affected by the outcome of his or her actions.

§ 114-52.206 Establishment of charges for utilities and related services.

Wherever practical utilities (electricity, gas, oil, propane, and water) and related services (sewer, garbage and trash disposal, cable TV, etc.) shall be provided to occupants of departmental rental quarters directly by a private supplier and the occupants billed directly for such services. Where the Government furnishes the service or collects for services provided by a private supplier, the charges should reflect the cost of similar services provided renters of comparable private rental housing in the nearby community or locality.

(a) Charges to occupants of rental quarters for utilities and related services, when furnished by the Government, shall therefore be established as follows:

(1) When utilities are capable of being individually metered and related services measured, by application of the prevailing rates for comparable utilities and related services in the community or locality used for comparison of rental rates. (For guidelines governing circumstances under which the Government may furnish utilities and related services, refer to chapter 7 of the D.Q.H.)

(2) When utilities cannot be individually metered and related services measured, by the most appropriate of the following methods:

(i) *Multiple housing units.* By equitably prorating among the occupants, the combined cost, determined through metering or measuring the overall service, if possible, or otherwise by estimating same and applying of prevailing rates for comparable private rental housing in the community or locality used for comparision of rental rates.

(ii) *Single family units.* By comparison with the cost of such service to occupants of comparable private rental housing at the time basic rental rates are established, affirmed, or adjusted through a private rental market survey.

(iii) *Bunkhouses/dormitories.* Where bunkhouses or dormitory quarters are provided, the rental rates shall combine the charges for shelter, furnishings, utilities, and related services into a single monthly or daily rate. This rate will be adjusted annually applying the applicable CPI adjustment factor.

In either subparagraph (1) or (2) of this paragraph, the utility charge shall be adjusted whenever changes occur in the prevailing rate for comparable services in the locality.

§ 114-52.207 Establishment of charges for furnishings.

(a) Charges to occupants of rental quarters for furnishings (stove, refrigerator, freezer, sink garbage disposal, window air-conditioner, washer, dryer, etc.), when provided by the Government will be established as follows: (1) By comparison with the cost of such service to tenants of comparable private rental housing when basic rental rates are established, affirmed, or adjusted through a survey of the private rental market, or if direct comparison is not available.

(2) Through application of replacement cost from Federal supply schedules.

(b) Where the charges are based upon the procedures outlined in paragraph (a)(1) of this section, or a cost schedule is employed, but not reviewed and adjusted yearly to reflect change in replacement costs, then the charges established for furnishings must be adjusted by application of the consumer price index (CPI) procedures set forth in appendix I to OMB Circular No. A-45, as revised, at the same time the annual (interim) adjustments are made to current rent schedules.

(c) The charge for Government provided furnishings is to be determined only upon a study of comparable private market rentals in the nearby representative community. The private rental market survey must clearly document what, if any, furnishings are customarily provided in the monthly rental charge. The furnishings must be deducted from the monthly rental charge to establish a basic rental rate for comparable Government quarters. In all instances, other than bunkhouses and dormitories (where a single monthly or daily charge is all-inclusive) the value of the individual furnishings must be added to the N.B.R.R.

To facilitate program review and coordination, quarters rental files will be maintained at the installation, approving office, and headquarters levels. The minimum record requirements for each of these levels are noted below:

(1) Project or installation level—

(i) Quarters rental rate schedule for each quarters.

(ii) Government quarters inventory form.

(iii) Quarters assignment agreement for each occupied unit.

(iv) C.P.I. adjustment actions.

(v) Notices of rental rate adjustment.

(2) Bureau approving office level—

(i) E.H.A. surveys:

(*a*) Quarters justification forms.

(*b*) Required occupancy forms.

(*c*) Copy of survey results including private rental quarters inventory forms and survey analysis and summary.

(*d*) Quarters rental rate schedule for each quarters.

(*e*) Government quarters inventory forms.

(*f*) Quarters assignment agreement for each occupied unit (for review of biweekly rental rate, including adjustments prior to submission to payroll-finance).

(*g*) C.P.I. adjustment actions.

(*h*) Notices of rental rate adjustment.

(ii) Individual quarters rental appraisal:

(*a*) Quarters justification forms.

(*b*) Required occupancy forms.

(*c*) Departmental quarters appraisal and appraisal review forms for each quarters rental unit.

(*d*) Quarters rental rate schedule for each quarters.

(*e*) Government quarters inventory forms.

(*f*) Quarters assignment agreement for each occupied unit (for review of biweekly rental rate, including adjustments, prior to submission to payroll-finance).

(*g*) C.P.I. adjustment actions.

(*h*) Notices of rental rate adjustment.

(3) Headquarters level—

(i) Quarters justification forms.

(ii) Required occupancy forms.

(iii) Copy of rental rate schedule for each rental quarters administered.

(iv) C.P.I. adjustment actions.

NOTE.—For the format and content of each of the above documents, refer to the D.Q.H.

Where an E.H.A. survey is conducted, the lead bureau shall submit the survey results (see subparagraph (2)(i)(c) of this paragraph) to the Director, Office of Acquisition and Property Management (PAM/PM) for review and concurrence prior to implementation of any revised rental rates.

§ 114-52.209 Periodic adjustments of basic rental rates and related charges.

To insure that rental rates and related charges reflect changes in the private rental market, rent schedules and the charges for utilities, services and furnishings will be affirmed or adjusted at periodic intervals as follows:

(a) Annual (interim year) adjustments. Rent schedules for quarters including charges for furnishings provided by the Government will be adjusted annually (between resurveys) in accordance with the procedures set forth in appendix I of OMB Circular No. A-45, as revised, dated October 31, 1964. However, utilities furnished by the Government whether or not metered or measured will be adjusted whenever rate charges occur in the locality used for comparison.

(b) Resurvey of private rental market. The basic rental rates for quarters, utilities, services and furnishings shall be affirmed or adjusted by survey of the private rental market as follows:

(1) Every fifth year, or when the basic rental rate for quarters has increased by 30 percent through application of the rent series of the U.S. city average C.P.I. (national average C.P.I.), whichever occurs first, provided that valid and realistic comparability has been established with private rental rates, or

(2) Every third year if for any reason valid and realistic comparability with private rental rates has not been established, or

(3) Any year when changes in the private rental market in the nearby established community indicate a need to adjust basic rental rates on the basis of a survey of the private rental market.

§ 114-52.210 Departmental quarters handbook (D.Q.H.).

A Handbook has been prepared to supplement IPMR parts 114-51 and 114-52. When fully implemented it will provide detailed guidelines governing administration, management and rental rate establishment activities related to Government furnished quarters. Bureau officers responsible for administration and management of rental quarters should have, and maintain, current copies of the handbook. The handbook is issued as a looseleaf service so that updated text material may be interleaved. The handbook as presently constituted replaces all existing bureau quarters rental rate establishment procedures as of October 1, 1978 to the extent the handbook provides subject coverage. The bureaus shall promptly bring to the attention of PAM(PM) any procedures they believe are not affected by the handbook relative to rental rate establishment. PAM(PM) will advise the bureau whether the bureau procedures are considered compatible with or superseded by the handbook coverage. If a bureau purposes additional procedures or forms to implement quarters rental program policies and regulations, they must submit same to the Director, Office of Acquisition and Property Management, for review and approval prior to adoption. If the proposed procedures are applicable departmentwide, they will be adopted and issued as part of the handbook.

(a) The handbook and its future revisions will be available from the Division of Printing and Publications, Office of Administrative Services, Department of the Interior, Washington, D.C. 20240.

(b) Distribution of the handbook will be bulk delivered to the several interested bureaus for internal distribution.

(c) Revisions of the handbook will be prepared by the Division of Property Management, Office of Acquisition and Property Management (PAM/PM) and routed to the Division of directives and Reports Management (AMO) for coordination and processing. Revisions are to be approved and issued by the Director, Office of Acquisition and Property Management.

Subpart 114-52.3—Adjustments to Basic Rental Rates

§ 114-52.301 General.

Where a quarters appraisal is conducted by a professional appraiser, certain adjustments would ordinarily be considered in the appraisal, e.g., adjustments for amenities and use of a portion of the quarters for official purposes. Such adjustments should be clearly documented in the appraisal. Adjustments made by a rental committee shall be based upon the regulations promulgated under this subpart (114-52.3 et seq.). In those cases where direct application of the principle of comparability with private rents results in either higher or lower rental rates than the "reasonable value of the quarters" to the employee, deductions from, or additions to the B.R.R. rate shall be made within the limits and to the extent authorized in this subpart 114-52.3. The total of all deductions for all reasons must not be so great that it results in a rental charge that is less than the reasonable value of the quarters, since this would constitute a supplementation of salary, specifically forbidden by statute.

(a) Adjustments made to the B.R.R. are to be reflected upon a rental evaluation schedule for each rental quarters. See the D.Q.H., appendix VIII for format.

(b) Rental of Government quarters where the rental is not in furtherance of a Government program objective but to raise revenue in the interim between official occupancy or pending disposal action, shall not be subject to any adjustments to the basic rental rate authorized under this subpart. Instead, an appraisal of the fair market value (economic rental) of the property will be required. See Subpart 114-52.7 for instructions on how such rentals are to be handled.

§ 114-52.302 Unusual transportation costs (U.T.C.).

The rate schedule for maximum transportation cost deductions contained in paragraph 6.c of OMB Circular No. A-45, as revised, is not meant to reflect either actual or estimated transportation costs (whether by common carrier or privately owned conveyance) to and from the nearest established community. It is solely intended as a mechanism by which management can alleviate, when appropriate, the economic burden resulting from strict application of the procedures used to establish the basic rental rate. No adjustment will be made for the intangible advantages or disadvantages of rural living.

(a) The nearest community to the housing location which qualified as an "established community" as defined in § 114-52.105(d) must always be used for purposes of computing the U.T.C. deduction even though a more distant community may have been used for rental rate purposes.

(b) A more distant community may be used for computing the U.T.C. deduction only when the nearest community is deficient in two or more of the services listed in § 114-52.105(d). Bureau files must include documentation of the deficient services justifying use of the more distant community.

(c) The U.T.C. adjustment is not intended to be automatic merely because quarters are located 10 or more miles from an established community. Government employees commonly commute 30 miles or 45 minutes one-way to work in both rural and urban work areas. Thus no U.T.C. adjustment will normally be made unless the Government quarters are located either 30.1 or more miles, or 45 minutes, or longer, commuting time by private automobile from an established community.

(d) No attempt will be made to set adjustments for individual families or specific quarters. To ensure uniformity in determining this deduction, a distance-reduction table shall be employed to compute this deduction. To determine the appropriate deduction, refer to chapter 5.1 of the D.Q.H.

(e) Where travel to and from the rental quarters location is fully dependent upon Government operated or public transportation and personally-owned vehicles cannot be used, the deduction may be computed on the basis of scheduled elapsed time of a round trip in lieu of the distance scale contained in the D.Q.H. For the appropriate deduction, consult the D.Q.H. and paragraph 6(c)(1) of the Office of Management and Budget Circular No. A-45, as revised, for details as to method of computing this deduction.

(1) This method of computing the unusual transportation cost deduction may be employed where climatic conditions prohibit use of personal vehicles for a portion of the year.

(2) In utilizing this method, the circumstances warranting application must be fully documented and the deductions applied only for so long as applicable.

§ 114-52.303 Adjustment for differences in amenities.

An adjustment in the basic rental rates shall be made to reflect differences in amenities (higher or lower) which may exist for rental quarters in relation to those of the private housing used for comparison. The adjustment for amenities is limited to consideration of those amenities listed in § 114-52.105(f). There are three methods of effecting this adjustment authorized by the Office of Management and Budget Circular No. A-45. These are:

(a) When the rates are recommended by a quarters evaluation board, each of the amenities listed in § 114-52.105(f) will be assigned the value of 2 percentage points. The difference in total points between those assigned the rental quarters and those assigned to the private housing will determine the deduction from or addition to the basic rental rate.

(1) Since the amenity factors are largely objective, certain guidelines are necessary to ensure that all quarters units are fairly and uniformly rated. A set of guidelines covering each of the 15 amenity factors is provided in chapter 5.2 of the D.Q.H.

(2) Documentation.—Whenever the amenity factors for Government rental quarters are determined to be either inferior or superior to private rental housing, or to an established standard, documentation supporting the decision must be included in the appraisal or E.H.A. report and installation quarters file.

(b) An alternative method, usable only when the rates for rental quarters are based upon the average of rental rates for comparable private housing in an economically homogeneous area in which the rental quarters are located, involves comparison with the average number of amenities present in the private rental sample. If when compared to the private rental survey housing, the individual Government rental quarters has less total amenities present than the average number of amenities present in the private rental housing survey sample, the total numerical difference times two (2) determines the percentage deduction to be made in the B.R.R.

(1) To apply this method of comparison, guidelines are necessary to determine whether an amenity is, or is not present. No direct comparison of amenities between rental quarters and the private rental housing is possible.

(2) To ensure that amenities are rated uniformly for both Government and private rentals, the determination of the amenity deduction shall be determined in accordance with guidelines which appear in chapter 5.2 of the D.Q.H.

(c) The percentage-point formulas utilized in paragraphs (a) and (b) of this section need not be used to determine the adjustment for differences in amenities where appraisals are made by a professional appraiser evaluating the rental quarters using generally accepted real estate concepts, which are in general conformity with the basic principles of OMB Circular No. A-45, as revised. The professional appraiser may arrive at the recommended adjustment by means other than percentage-point formula methods. However, in determining this adjustment, a professional appraiser may not take into consideration any amenity not listed in §114-52.105(f).

(1) Where an appraisal of the "rental value" of the rental quarters is conducted by a professional appraiser, no additional adjustments to the basic shelter rental rate are appropriate, except for the following administrative deductions which relate to occupancy.

(i) Excessive size or quality.

(ii) Inadequate size.

(iii) Invasion of privacy.

(2) The appraisal report supporting the appraiser's estimate of economic rental value must show the extent to which amenities are reflected in the recommend rate.

§ 114-52.304 Invasion of privacy.

A deduction from the basic rental rate may be granted whenever a portion of the rental quarters are used for the purpose of accommodating official visitors, for official office space, or for the general convenience of the public. This deduction is authorized only when a portion of the rental quarters is required for official business purposes on virtually a daily occurrence, and private use of the family area is seriously diminished. Occupancy of Government rental quarters generally creates some infringement upon the privacy of the family of the tenant-employee, however, no adjustment can be made to reflect this inconvenience in the absence of an officially designated use. Where space is officially designated for use as office or work space, the appraiser will determine the loss of value in accordance with normal appraisal technique. No dollar or percentage limitation will be imposed on the appraiser's judgment. Where the quarters are used to accommodate official visitors or for the convenience of the public, the impact is not as readily assessed as where office or work space is officially designated. An administrative determination is considered more appropriate on such instances to determine the impact the frequency of the official demands, and the extent to which the employee's private use of the family area is restricted, are to be taken into consideration.

(a) A deduction not to exceed 10 percent of the basic rental rate is authorized where an invasion of privacy occurs. The maximum allowance of 10 percent will be applied only where the private use of the family area is seriously diminished by substantial daily use. A lesser adjustment will be made for less frequent or serious disruptions upon family privacy.

(b) To assist each bureau in determining the appropriate percentage adjustment where an invasion of privacy is involved, a set of guidelines have been prepared. These appear in chapter 5.4 of the D.Q.H.

§ 114-52.305 Excessive size or quality.

At some locations, due to a lack of available alternative housing or program needs, an employee who is a "required occupant" may be required to occupy rental quarters which are larger or of better quality than he would select in a private community. The rental quarters must be clearly in excess of his family's needs. In such instances, the quarters would not constitute "reasonable value" to the employee-tenant that would be reflected by comparison with private rental housing. In these circumstances, the rent (excluding utilities) charged an employee will not exceed 20 percent of his gross salary (pay and allowances).

(a) *Excessive size.* (1) The above limitation on salary deduction will not be applied unless the rental quarters has at least 2 or more bedrooms in excess of the total number of occupants, i.e.,

1 occupant—3 bedrooms;
2 occupants—4 bedrooms; and
3 occupants—5 bedrooms, etc.

(2) As an alternative to application of the 20 percent salary limitation, where rental quarters are determined to be excessive in accordance with the guidelines set forth in paragraph (a)(1) of this section, employees will not be charged for those excess bedrooms which are unused. In these instances, the B.R.R. for the particular rental quarters will be determined by reducing the basis rental rate by 10 percent for each bedroom closed off to tenant use. A maximum of two bedrooms or 20 percent deduction will be authorized. Additional guidelines for determining this deduction are to be found in chapter 5.6 of the D.Q.H.

(b) *Excessive quality.* (1) (Government constructed quarters)—Where F.H.A. design standards were utilized in construction, housing normally would not qualify as being of excessive quality. Exceptions must be fully documented.

(2) (Acquired or leased quarters)—Where acquired or leased housing is utilized as rental quarters, the quarters must clearly be excessive in quality design and construction, when compared with the average of comparable size private housing units in the same locality.

(c) The 20 percent salary limitation or adjustment will not continue beyond one month subsequent to the availability of:

(1) Any private housing more suitable to an employee's needs, or

(2) Rental quarters more suitable to the employee's needs, unless it is determined in each instance that reassignment to other rental quarters will not serve to benefit the Government.

§ 114-52.306 Inadequate size.

Where an employee, because of the lack of available housing or rental quarters, is required to accept quarters which are inadequate in size for the needs of his family, a deduction of not to exceed 10 percent of the basic rental rate is allowable.

(a) Quarters will be considered inadequate if the number of occupants (consisting of immediate family members) exceeds the number of bedrooms by 2 or more, e.g.,

Number of bedroom(s)	Quarter inadequate if—
1	3 or more occupants.
2	5 or more occupants.
3	7 or more occupants.
4	9 or more occupants.
5	Etc.

(b) To determine the appropriate percentage to be applied as an adjustment in each instance, refer to the guidelines appearing in chapter 5.5 of the D.Q.H.

(c) This deduction will not continue beyond one month subsequent to the availability of adequate alternative quarters as provided in § 114-52.305(d) (1) and (2).

§ 114-52.307 Lack of all-weather construction.

Where it has been determined that a given set of quarters must be retained for use as employee housing and the quarters, by reason of poor design or lack of all-weather construction require an unreasonable additional expense to the employee for heating or cooling, a deduction is allowable under the following terms: If the rental quarters in question require expenses to the occupant in excess of $50 per heating or cooling season over the average of heating or cooling costs for the comparable housing as determined by a suitable survey, the head of the bureau/office may determine that 90 percent of the excessive costs (those in excess of $50 over the average) may be deducted from the annual rental rates. The total deduction may be applied to rental payments made during the months of the heating season, or they may be prorated over the entire year. For the appropriate method of computing this deduction, refer to chapter 5.3 of the D.Q.H. When energy inefficient quarters are identified, an action plan must be prepared and executed at the earliest opportunity to correct those deficiencies which it is feasible to correct. The action plan shall be developed in accordance with the guidelines developed to supplement Secretarial Order No. 3007, dated August 19, 1977.

§ 114-52.308 Maintenance of two households.

Where permanent personnel occupy rental quarters on a temporary or seasonal basis while performing assigned field work, they may be transferred to the field location under certain conditions. Where it is necessary for an employee to maintain two households for the convenience of the Government, one permanent and one temporary, and he is not eligible for per diem, the rental rate for the rental quarters may be adjusted so that the combined housing costs (exclusive of utilities) which the employee must pay over a twelve month period is not excessively burdensome. Unless approval is granted by the Office of Acquisition and Property Management, the adjustment authorized shall not exceed 20 percent of the basic rental rate for the temporary quarters.

NOTE.—This situation is extremely rare since the employee in most instances would be placed in travel status and furnished either (a) housing in lieu of per diem, (b) a reduced per diem, or (c) with appropriate deductions made from the per diem claim.

§ 114-52.309 Limitation on allowable deductions.

Under certain circumstances, generally where rental quarters are remotely located and a large unusual transportation cost (U.T.C.) deduction is authorized, the sum of all deductions may be substantial. OMB guidelines, section 6(c) of OMB Circular No. A-45 establish limitations on the amount of allowable deductions to prevent the deductions in such instances from being excessive. Excessive deductions would result in a rental rate that is less than "reasonable value" to the occupant. Where the average monthly U.T.C. (based upon any consecutive twelve month period) when established in accordance with the guidelines set forth in § 114-52.302 and the D.Q.H., is $45 or less, the maximum allowable adjustment for all purposes shall not exceed 50 percent of the basic rental rate. Where the average monthly U.T.C. adjustment does exceed $45 a month, the maximum allowable adjustment for all purposes may not exceed 67 percent of the basic rental rate. The rental rate evaluation schedule contained in appendix VIII in the D.Q.H. requires a determination of whether the above set of limitations are applicable in each instance.

§ 114-52.310 Documentation and records.

The records required by § 114-52.208 shall clearly reflect the facts and circumstances which support any adjustments (deductions or additions) allowed in accordance with the provisions of this subpart 114-52.3.

§ 114-52.311 Administrative review.

Each bureau shall establish a system of review to determine the appropriateness of initial adjustments to the basic rental rate, and continued applicability of such adjustments.

(a) Adjustment factors subject to modification or termination should be reviewed each year prior to any adjustment action such as provided for in § 114-52.209 (C.P.I. adjustments) to determine whether such adjustment is still warranted. Example, an adjustment for inferior telephone service should be eliminated if adequate service is installed.

(b) A system should be established whereby field leaders provide notification to the appropriate quarter's administrating office of a basis for modifying current adjustments (see the D.Q.H. for the form memorandum to be used to provide this information as well as data on changes in local utility and related service costs).

§ 114-52.312 Adjustment for possessory interest tax payments.

(a) Where an employee-tenant provides evidence of payment of a possessory interest tax based upon the value, as determined by a state or local taxing authority, of the tenant's use and occupancy of Government-owned quarters, the amount of the tax will be offset against the M.R.C. until full credit is received. Where payment of the tax occurs after an employee leaves Government housing, the tax will be rebated to the tenant from the bureau's or office's applicable quarters rental fund or appropriation, to the extent permitted by law.

(1) This procedure shall apply in all instances where a possessory interest tax becomes payable on or after January 1, 1978.

(2) No action will be taken to adjust the quarters rental rate in advance of documented evidence of payment. Thus the quarters rental valuation process will not take into consideration the potential tax liability.

§ 114-52.313 Administrative relief.

Where the head of a bureau or office believes that extreme circumstances exist for specific housing situations, such as to cause the rental rate, established pursuant to OMB Circular No. A-45, as revised, and these Departmental regulations, to be unreasonable, he will refer such situations to the Director, Office of Acquisition and Property Management (PAM/PM). If the circumstances appear to warrant extraordinary relief, the case will be referred to the Office of Management and Budget for an exception under the provisions of paragraph 6(d)(4) of OMB Circular No. A-45, as revised.

Subpart 114-52.4—Implementation of New and Revised Rates

§ 114-52.401 Effective date of new rates.

Rental rates shall not be established until and unless use of the housing as quarters has been approved by an official having been properly delegated the authority to make such a decision. A quarters justification form has been devised to facilitate review and approval actions. The form appears in appendix VIII of the DQH. Rates for newly constructed or acquired rental quarters, and utilities, furnishings and services should be established by appraisal or rental survey procedures before the quarters are to be occupied or the services furnished. In any case where this cannot be done, the rates proposed by the quarters evaluation board or appraiser shall be used pending date of official establishment. Final rates shall be established within six months of the date the interim rates are implemented, and shall not be applied retroactively.

§ 114-52.402 Effective date of revised rates.

The effective date for application of revised rental rates for quarters, utilities, services and furnishings shall be determined in the following manner:

(a) Annual (interim year) adjustments to the basic rental rates shall be based upon changes in the CPI and shall become effective at the beginning of the first full pay period which starts on or after February 1 of each year.

(b) Resurvey of the private rental market. Once the rates have been established initially, the rates shall be affirmed or adjusted through a survey of the private rental market in accordance with the provisions of appendix I to OMB Circular No. A-45, as revised, § 114-52.209(b).

(1) Rates based upon a resurvey of the private rental market must be implemented on the first day of a biweekly pay period beginning not less than 30 and not more than 90 days after completion of the survey action.

(2) A survey action shall be deemed to be completed when the appraisal or FHA survey results have been reviewed and official approval recommended.

(3) Where a reevaluation of the basic rental rate results in a substantial increase, no incremental (staged) increase will be permitted unless authorized by OMB. Requests for incremental increases will be submitted to the Office of Acquisition and Property Management for review and submission to OMB.

(4) Unless written clearance is obtained from the Office of Acquisition and Property Management in advance, all rates based upon surveys are required to be implemented within six months of initiation of the survey field studies.

§ 114-52.403 Implementation of rental rate changes.

When a tenant is occupying Government quarters under a quarters occupancy agreement, and the rates are revised due to a resurvey, a CPI adjustment action, or a change in the rates charged tenants of private rental housing for utilities, services or furnishings, the revised rate shall not be implemented until 30 days after the tenant shall have received notification, in writing, of the basis and amount of the change. Notification shall be either by certified mail, return receipt requested, or alternatively hand delivery with written acknowledgment of receipt.

(a) The bureau quarters assignment agreement shall provide for automatic implementation of revised rates negating any need for execution of a new occupancy agreement (see appendix VIII of the DQH).

(b) Where an error or omission results in the establishment of an improper rental rate and corrective action is required, the employee should be notified without delay of the pending corrective action. In such instances, a 30-day written notice is not required prior to effecting the revision.

§ 114-52.404 Rental period.

Rates shall be established on a biweekly basis for quarters, utilities, services, and furnishings, except that rates for dormitory rooms and similar accommodations may be set on a daily basis. Annual rates shall be converted to biweekly rates by multiplying by 0.0385 or to daily rates by dividing by 364.

Subpart 114-52.5—Program Coordination

§ 114-52.501 Intradepartmental coordination.

Where two or more bureaus or offices of the Department of the Interior administer rental quarters at the same location or in the same general geographic area, the following criteria shall be observed:

(a) Where two or more bureaus or offices administer rental quarters at the same site or in the same community, a single rental rate survey shall be conducted.

(b) Where two or more bureaus administer rental quarters which (1) are located within 25 miles of each other, or (2) normally utilize the same established community for trading purposes, a single rental rate survey shall be conducted.

(c) In any state or portion thereof where it is determined by the Director, Office of Acquisition and Property Management (PAM/PM), that all the housing units are so situated as to warrant the conduct of a single, coordinated, economically homogeneous area (EHA) rental survey, the affected bureaus will be notified by the Office of Acquisition and Property Management at least 6 months in advance of the proposed survey date.

(1) Where a single survey is employed all affected housing units will be valued as of the same date. In such instances, EHA survey approach will be utilized with the Office of Acquisition and Property Management assisting in determination of the representative communities to be surveyed.

(2) Where installation housing is located in more than one State, all housing shall be valued as of the same date based upon the survey conducted within the State with the majority of the installation housing.

(d) Where a single rental rate survey is mandated, the survey may be contracted for, conducted jointly, or conducted by the agency with the predominance of area housing. The lead agency shall be responsible for contacting the other bureaus and offices having quarters meeting the criteria noted in paragraphs (a) and (b) of this section.

(e) When a single rental survey is mandated and the affected bureaus have varying dates of survey, a resurvey shall be conducted 5 years from the date of the earliest of the individual bureau surveys. Thereafter rental surveys shall be conducted at 5-year intervals, or sooner, if warranted.

Ex. Bureau (1) latest survey is December 1972.

Bureau (2) latest survey is June 1974.

A joint resurvey will be due December 1977, and December 1982, etc.

(f) In any case where agreement cannot be reached by the bureaus involved as to the method(s) to be followed in setting rates, full particulars describing the specific points or areas of disagreement shall be transmitted to the the Office of Acquisition and Property Management through appropriate bureau channels for consideration.

(1) Bureaus may not apply different criteria in calculating adjustments under Subpart 114-52.3, of this part, unless circumstances actually differ between housing units or area.

§ 114-52.502 Interdepartmental coordination.

(a) Where another agency administers rental quarters in the same area where Interior housing is located, an effort must be made to coordinate rental rate processes with such other agency or agencies, except:

(1) Where the other agency employes processes which deviate from the principles and standards set out in the Office of Management and Budget Circular No. A—45, as revised.

(2) When another agency utilizes an economically homogeneous area approach to valuation. In this instance, while the bureau or office may participate in the rental survey process as to the nearest representative community, the rental rates adopted must be fully supported by a bureau conducted private rental market survey of the representative community.

(b) Where another agency administers rental quarters at the same site, any disagreement or inability to jointly establish basic shelter rental rates, and adjustments thereto, which results in unequal monthly rental changes for otherwise equal housing and services is to be referred through channels to the Assistant Secretary—Policy, Budget, and Administration for resolution with the other agency.

This does not preclude deviation from Departmental regulations (such as unusual transportation cost) where deviation is necessary to accomplish interdepartmental coordination, provided that such deviation does not contravene OMB guidelines.

Subpart 114-52.6—Employee Participation and Appeals

§ 114-52.601 Employee participation in ratesetting processes.

Employees occupying government-furnished quarters should be furnished the criteria and procedures to be followed in establishing the rental rates for such quarters, utilities, furnishings and services. Presurvey and postsurvey meetings with the employees are recommended as an effective means of insuring a full disclosure and understanding of survey actions. Employees should be afforded an opportunity, both as individuals or through employee organizations, to have their views and representations considered by the quarters evaluation board during the rentsetting process.

(a) Employee-tenants or representatives of employee organizations may not accompany an official conducting a rental survey of private rental market comparables. When the field portion of the rental ratemaking process is completed, it is permissable to review onsite with employee-tenants or representatives of employee organizations the private rental market units selected for comparability.

(b) The use of employee-tenants to obtain requisite data on the cost of utilities, services, and furnishings is permissible, if the data collected is in a documented format, i.e., rate schedules, letters, tariffs, etc. Normally requests for such information should be made to the project or installation leader.

§ 114-52.602 Appeal procedures.

(a) Occupants of departmental quarters shall be notified of their right to appeal rental rates, adjustments, or other charges whenever they believe the quarters have been improperly classified, rates have not been established within these guidelines, or the rates do not reflect reasonable value to the employee-tenant. The appeal shall be made in writing, outlining in detail the basis for the appeal. The appeals should be filed within 10 days following receipt of the notice of change in rate to the bureau official approving the rental rate schedule.

(1) Appeals undertaken as to either existing or proposed rates shall be adjudicated as of the date the appeal was filed.

(2) The filing of an appeal shall not result in postponing implementation of a proposed rate pending adjudication of the appeal.

(3) Where an appeal results in a revision of the rental rate, the employee shall be credited with whatever overpayment resulted during the period from the filing of the appeal to the date the decision is implemented.

(b) An employee (not other occupants) may appeal to the official approving the rental rate for a reconsideration of a proposed rate. Where the bureau approving official issues a decision affirming at least in part contested elements of the rental survey process, the employee may appeal to the Office of Hearings and Appeals within 10 days of the receipt of notice of such decision. The Director of the Office of Hearings and Appeals shall refer the appeal to an ad hoc board consisting of one or more persons, at least one of whom shall be experienced in real estate evaluation and rental rates. The decision of the ad hoc board shall be final. The appeal to the Office of Hearings and Appeals shall be the sole procedure for appeal from the bureau approval official's decision on reconsideration.

Subpart 114-52.7—Non-Federal (Private Party) Quarters Rentals

SOURCE: 43 FR 36941, Aug. 21, 1978, unless otherwise noted.

§ 114-52.701 General.

(a) Where departmental owned or leased quarters are unoccupied pending possible future program use, or disposal as excess to program needs, it is in the Government's interest to have the quarters occupied. When the quarters are leased to private parties, the rates and charges for the quarters and facilities shall be determined in accordance with the provisions of this subpart.

(b) Rental to a private party (general public) includes rental to any person, not an Interior employee, whose occupancy is not directly related to performance of a contract, memorandum of understanding, or other formal agreement, between the bureau or office managing the quarters and another cooperating Federal or State agency, or with a contractor providing services or supplies to the managing bureau or office.

§ 114-52.702 Basic policy.

User charges for departmental owned or leased quarters rented on an interim basis to private parties are controlled by the policies and principles set forth in OMB Circular No. A-25, as revised. That policy provides, "* * * a fair market value rental should be obtained (when rented to the public). Charges are to be determined by the application of sound business management principles, and so far as practicable and feasible in accordance with comparable commercial practices. Charges need not be limited to recovery of costs; they may produce net revenues to the Government."

(a) The establishment of fair market value rental rates (also known as "economic rent") shall be based upon accepted real estate valuation principles. Under such circumstances, it would be inappropriate to base the charges upon the quarters valuation guidelines promulgated pursuant to OMB Circular No. A-45, as revised. The departmental guidelines (IPMR 114-52.2 and 114-52.3) are not designed to produce fair market value rental rates.

(b) To establish the fair market value rental rate, an appraisal shall be accomplished in accordance with the following requirements:

(1) The appraisal shall be conducted by a professional fee appraiser or a similarly qualified staff appraiser.

(2) The appraisal shall establish the "economic rent" taking into consideration all relevant factors including the imposition of any special terms and conditions required by the Government.

(3) The valuation process shall be adequately documented and the appraisal approved by a qualified review appraiser.

§ 114-52.704 Interim rental of excess quarters.

When a determination is made that quarters excess to a bureau's program needs are not required in support of another Federal agency program, the bureau, with GSA approval, may lease the quarters for non-Federal use. Prior to granting non-Federal use, the bureau must comply with the requirements of IPMR 114-47.802.50 and FPMR 101-47.20-39.

§ 114-52.705 Interim rental pending future official use.

Where a bureau has a possible future official use for a set of quarters and the quarters are not required for other Federal program needs, interim leasing for non-Federal use may be considered. Where the bureau lacks specific statutory authority to grant a lease to a private party, a special delegation of authority may be obtained from the Secretary of the Interior. This authorization is available on a case-by-case basis from the Office of Acquisition and Property Management (PAM/PM).

§ 114-52.706 Lease terms and conditions.

(a) The interim leasing of quarters for non-Federal use is limited to periods not exceeding one year in duration. The lease, when approved, may be renewed for up to one additional year without resubmission to PAM/PM for approval. The request for authorization shall be supported by adequate documentation as to anticipated future program requirements, including evidence that future housing needs cannot be adequately addressed by private rental or purchase housing in the locality.

(b) The minimum terms and conditions required by the Department are shown on the lease agreement illustrated in appendix IX of the D.Q.H. The bureaus may impose such additional terms and conditions as are appropriate to protect the interest of the Government.

PART 114-60—PERSONAL PROPERTY MANAGEMENT

Sec.
114-60.000 Scope of part.
114-60.001 Supplemental regulations.
114-60.002 Compliance reviews.
114-60.003 Optional forms.

Subpart 114-60.1—General

114-60.100 Definitions.
114-60.101 Statutory provisions.
114-60.102 Regulatory requirements.
114-60.103 Property controls.
114-60.103-1 Accountability.
114-60.103-2 General ledger control accounts.
114-60.103-3 Property records.
114-60.104 Use of Government property restricted to official purposes.
114-60.105 Property irregularities.
114-60.106 Property loss/damage/destruction.

Subpart 114-60.2—Receipt of Property and Services

114-60.200 Scope of subpart.
114-60.201 Policy.
114-60.202 Basic receiving principles.
114-60.203 Documentation of receipts.

Subpart 114-60.3—Identification of Personal Property

114-60.300 Government ownership identification markings.
114-60.301 Exemption.
114-60.302 Assignment and display of property numbers.
114-60.303 Items requiring special identification.

Subpart 114-60.4—Storage of Property

114-60.400 Scope of subpart.
114-60.401 Objectives.
114-60.402 Storage facilities.
114-60.403 Flammable materials.
114-60.404 Explosives.
114-60.405 Technical equipment.
114-60.406 Watchmen.

Subpart 114-60.5—Classification of Property

114-60.500 Responsibility.
114-60.501 Classification criteria.

Subpart 114-60.6—Stores Records

114-60.600 General ledger control account.
114-60.601 Storehouse records.
114-60.602 Periodic reconciliation.
114-60.603 Designation of employees authorized to withdraw property from storehouse.
114-60.604 Documentation of issues.
114-60.605 Records and control of tax-free alcohol.
114-60.605-1 Annual review and report of tax-free alcohol.

Subpart 114-60.7—Nonexpendable Property Records

114-60.700 General ledger control accounts.
114-60.701 Accountability records.
114-60.702 Reconciliation.
114-60.703 Transfer of accountability.
114-60.704 Responsibility records.
114-60.705 Property clearance.

Subpart 114-60.8—Periodic Inventories of Personal Property

114-60.800 Physical inventories.
114-60.801 Responsibility.
114-60.802 Special inventories.
114-60.803 Periodic reconciliation.
114-60.804 Inventory report.

Subpart 114-60.9—Board of Survey Procedures

114-60.900 Scope of subpart.
114-60.901 Requirement for survey action.
114-60.902 Documentation required.
114-60.903 Survey authority.
114-60.904 Responsibilities of a Board of Survey.
114-60.905 Reviewing authority.

Subpart 114-60.10—Property Management Standards for Grants

114-60.1000 Scope of subpart.
114-60.1001 State and local governments.
114-60.1002 Institutions of higher education, hospitals, and other private organizations.

APPENDIX A—PROPERTY MANAGEMENT STANDARDS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS

APPENDIX B—PROPERTY MANAGEMENT STANDARDS FOR GRANTS—EDUCATIONAL INSTITUTIONS, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

AUTHORITY: (5 U.S.C. 301); sec. 205(c) 63 Stat. 390 (40 U.S.C. 486(c)).

§ 114-60.000 Scope of part.

This part prescribes basic policies and procedures governing the management of personal property which are not appropriate for codification in other parts of the Interior property management regulations. The provisions of this part are applicable to the personal property acquired by all Bureaus and Offices of the Department of the Interior. Compliance with the basic requirements established herein will insure that proper records of all personal property are maintained and that such property is protected, preserved, and used only for official purposes.

[39 FR 34279, Sept 24, 1974]

§ 114-60.001 Supplemental regulations.

The head of each Bureau and Office shall issue such supplemental regulations, not inconsistent with the provisions of this Part 114-60, as deemed necessary for proper implementation of Interior Property Management Regulations.

[39 FR 34279, Sept 24, 1974]

§ 114-60.002 Compliance reviews.

The head of each Bureau and Office shall provide for such periodic review of the property management operations at regional and other field office levels as he deems necessary to insure that an adequate and effective personal property management program, appropriate to the mission of each such field office, is established and maintained in accordance with the provisions of this Part 114-60 and applicable Bureau regulations.

[39 FR 34279, Sept 24, 1974]

§ 114-60.003 Optional forms.

Department of the Interior forms, illustrated in appendix I through VIII of Subpart 114-60.1, are provided for optional use in carrying out the provisions of this Part 114-60. These forms may be modified to accommodate individual Bureau or Office requirements at the discretion of the head thereof. However, such modified forms shall contain no less data than are required to be included in the forms provided in Appendix I through VIII. If a Bureau or Office adopts the use of modified forms in lieu of Department of the Interior forms, it shall assign appropriate Bureau or Office numbers to such modified forms.

[39 FR 34279, Sept 24, 1974]

Subpart 114-60.1—General

SOURCE: 39 FR 34280, Sept. 24, 1974 unless otherwise noted.

§ 114-60.100 Definitions.

The terms used in this Part 114-60 are defined as follows:

(a) *Personal property.* Personal property means property of any kind or any interest therein, except (1) real property, (2) records of the Federal Government, and (3) vessels of the following categories: Battleships, cruisers, aircraft carriers, destroyers, and submarines. Specifically, personal property includes all equipment, materials, and supplies, unless or until incorporated in or permanently affixed to real property.

(b) *Accountable officer.* The official(s) of the Bureau or Office designated by the head thereof or other official not below the regional (or comparable) level, as responsible for insuring the establishment and maintenance of adequate property accounting records and effective control over the property assigned for use of the organization or a particular element (e.g., region, area, project, park, refuge, or other office) of the organization. As a general rule, the head of the organizational unit having jurisdiction over the property should be designated as the "accountable officer" for such property.

(c) *Property accountability.* The obligation of the official designated as the accountable officer to establish and maintain adequate property accounting records and safeguards to insure effective control over the property under his administrative jurisdiction. This obligation may not be delegated to other officers or employees, although the property recordkeeping function and responsibility for the use, care, and safekeeping of property may be assigned to others.

(d) *Property responsibility.* The obligation of an individual for the proper use, care, and safekeeping of property entrusted to his possession or under his direct supervision.

(e) *Expendable property.* As used in this Part 114-60, the term "expendable property" has two meanings:

(1) Property which, when put to use, is consumed, loses its identity, or becomes an integral part of other property, and

(2) Property which, although nonexpendable by definition, is administratively considered and treated as expendable because of its high rate of breakage in service, short service life, or relatively insignificant value.

(f) *Nonexpendable property.* Property which has continuing use as a self-contained unit; is not consumed in use; does not lose its identity when put to use; or does not ordinarily become a component of other equipment or plant.

(g) *Capitalized property.* Non-expendable property, the value of which is charged to an asset account (general ledger control account) in the finance office and is to be distributed to capital accounts in accordance with established Bureau procedures.

(h) *Noncapitalized property.* Nonexpendable property, the value of which is charged to an expense account, either when issued for use or at time of receipt.

(i) *Materials and supplies.* Property items which, when put to use, are consumed, lose their identity, or become an integral part of other property. (Synonymous with expendable property as defined in paragraph (e)(1) of this section.)

(j) *Neglect and negligence.* Neglect and negligence is the failure or omission to observe, for the protection of the interests of the Government, that degree of care, precaution, and vigilance which the circumstances justly demand, whereby the Government suffers loss, damage, or destruction of property.

(k) *Loss.* The terms "loss" and "property loss" are used frequently to indicate the loss of, damage to, or destruction of, property of the United States and other property under the control of the Department of the Interior. They are used as comprehensive terms to avoid repetition of the longer expression.

§ 114-60.101 Statutory provisions.

(a) The importance of adequate property accounting has been specifically recognized by the Congress in section 202(b) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 483(b)). This section requires that each executive agency shall maintain adequate inventory controls and accountability systems for property under its control.

(b) Title 31 of the United States Code (31 U.S.C. 66a) requires that each executive agency shall establish and maintain systems of accounting and internal control designed to provide effective control over and accountability for all property for which it is responsible.

(c) Title 18 of the United States Code (18 U.S.C. 641) provides that:

> Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys, or disposes of any record, voucher, money, or thing of value of the United States, or of any department or agency thereof, or any property made or being made under contract for the United States, or any department or agency thereof; or
>
> Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined, or converted—
>
> Shall be fined not more than $10,000 or imprisoned not more than 10 years, or both; but if the value of such property does not exceed the sum of $100, he shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

§ 114-60.102 Regulatory requirements.

General Government-wide regulations governing the maintenance of adequate property accounting records are contained in subsection 12.5 of the General Accounting Office Policy and

Procedures Manual. These regulations include principles and standards relating to:

(a) The recordation, classification, and capitalization of property,

(b) The taking of periodic physical inventories of property on hand, and

(c) The reconciliation and adjustment of differences between quantities of property determined by physical inventories and those reflected in the accounting records.

§ 114-60.103 Property controls.

§ 114-60.103-1 Accountability.

All property acquired by the Government shall be charged to an accountable officer immediately upon receipt of the property regardless of the source from which the property was acquired. Property accountability remains fixed until an accountable officer is relieved of such accountability by one of the following:

(a) Transfer of accountability to another accountable officer in accordance with IPMR 114-60.703;

(b) Transfer of available property to another accountable officer within the Department and transfer of excess property to another Government agency (§ 114-43.102-53);

(c) Sale of property under the conditions and limitations set forth in FPMR 101-45.3 and IPMR 114-45.3;

(d) Authorized condemnation, destruction, abandonment, or donation;

(e) Board of Survey procedures as set forth in IPMR 114-60.9.

§ 114-60.103-2 General ledger control accounts.

Each Bureau and Office shall establish and maintain general ledger control accounts to properly account for all capitalized personal property acquired or to be acquired in accordance with the provisions of this Part 114-60. All basic property accounting systems and procedures shall be cleared with the Office of the Assistant Secretary—Policy, Budget and Administration [Reference shall be made to the Budget and Accounting Procedures Act of 1950 (64 Stat. 832)].

§ 114-60.103-3 Property records.

Each Bureau and Office shall establish and maintain records to identify the units of property acquired, the cost of which is recorded in general ledger control accounts. The total valuation of property reflected in these records and the general ledger control accounts shall be reconciled at periodic intervals and any necessary adjustments, properly and adequately supported, made to bring these two records into complete agreement.

§ 114-60.104 Use of Government property restricted to official purposes.

No officer or employee of the Department shall use or authorize the use of Government property for other than official purposes (see 18 U.S.C. 641 and § 114-60.101(c)). The policy set forth in § 101-25.100 of this title and § 114-25.100 of this chapter shall be followed in making determinations as to what constitutes official use.

[41 FR 4927, Feb. 3, 1976]

§ 114-60.105 Property irregularities.

As provided in 355 DM 2, matters involving any irregularity in the use of, or accounting for, Government property are to be handled in accordance with the instructions contained in 356 DM 1. Cases of theft or vandalism are to be immediately reported to local or Federal law enforcement officers except in those instances where there is an indication of employee involvement, In any instance involving property irregularities subject to the provisions of 355 DM 2, final Board of Survey Action should be deferred until completion of action by the Office of the Secretary.

§ 114-60.106 Property loss/damage/destruction.

When Government property is lost, damaged, or destroyed, the Board of Survey will conduct an official investigation of the facts and circumstances surrounding such loss, damage, or destruction in accordance with § 114-60.9. In making its investigation, the Board of Survey will consider the possibility that the employee(s) involved were responsible for the loss, damage, or destruction. In any instance where such a possibility does exist, the Board will use the following guidelines in making its recommendations pertaining to the financial liability of any employee:

(a) Employees will not be held financially liable for loss/damage/destruction attributable to inexpert use, inadequate supervision or instruction, or inherent defects in the property.

(b) Under circumstances other than the above, employees will not be held financially liable unless, after thorough investigation, it is determined that the property involved was being used for other than official purposes, or that the loss/damage/destruction was due to an act or omission of the employee(s) which is of such nature as to constitute misconduct, willful negligence, or a wanton and reckless disregard for the property. In each instance where such an investigation is to be conducted, the employee(s) involved will be given due notice of the investigation and will be permitted to submit written, signed statements for the investigative file. Employees and accountable officers should be relieved of accountability and financial liability for lost/damaged/destroyed Government property when they satisfactorily explain, and the evidence is consistent with such explanation, that, under the circumstances of the case, the loss occurred despite all reasonable precautions taken by the individual(s) concerned.

(c) In the case of missing property where the employee is unable to produce the property and is unable to explain meaningfully the circumstances under which it disappeared, the Board will usually be concerned with the question as to whether the employee had, or should have had, adequate control over and custody of the property. If the nature of the property or the circumstances of the employee's holding it were such that custody and control were unimpaired, the Board would understandably be reluctant to recommend that the employee should be relieved of financial liability.

(d) A sufficient amount of evidence of loss resulting from, but not limited to, the following, will be regarded as just cause for denial of relief from responsibility and for imposing financial liability:

(1) Intent to defraud.

(2) When cause of loss was due to misconduct or failure to follow standards of procedures prescribed and disseminated by written or oral means by the accountable or responsible official.

(3) Failure to exercise such supervision over subordinates as normally might be expected to detect delinquencies under paragraph (d) (1) or (2) of this section, or failure to report such delinquencies to proper authorities.

(e) Any deliberation as to the question of an employee's financial liability must be completely separate and apart from, and without prejudice to, any personnel action that may be under consideration (e.g., admonishment, reprimand, suspension, reassignment, demotion, etc.). The assessment of financial liability is not to be used in lieu of, or as a form of, disciplinary action, and some cases merit both actions.

(f) When the Board of Survey recommends that an employee should be held liable for property loss/damage/destruction, the Board will determine the extent of financial liability for which the employee should be held liable. The amount of liability for property damage should be the estimated or actual cost or repairs for damage that was a direct result of the incident, regardless of whether or not the property is repaired. The amount of liability for lost or destroyed property should be the estimated fair market value of the property based upon the last known condition and age of the property at the time of its loss or destruction.

(g) Prompt action is required. Survey action will be initiated as promptly as possible upon discovery of property loss/damage/destruction. A delay of over 30 days in originating survey action will be regarded as being without justification unless the cause of delay is fully and adequately explained by the accountable officer.

(h) The Board's recommendations as to the financial liability of an employee are subject to approval by appropriate reviewing authority (§ 114-60.905).

(i) When it is determined that an employee should be held liable for property loss/damage/destruction, the Government will establish its claim against the employee, usually by billing the employee for the amount involved. (Payment of such billing does not convey title to the property.) If the employee does not consent to reimburse the Government for the amount billed, there is no statutory authority under which the amount can be withheld from current salary payments due the employee. However, this prohibition does not apply to final salary payments or to lump sum leave payments due the employee at the time of separation from service (29 CG 99).

(j) An employee who feels that a determination of financial liability was unfair or unjust has the right of appeal through bureau and Departmental grievance procedures (see 370 DM 771).

Subpart 114-60.2—Receipt of Property and Services

SOURCE: 38 FR 12402, May 11, 1973, unless otherwise noted.

§ 114-60.200 Scope of subpart.

This subpart prescribes policies and basic requirements for adequately documenting the receipt of personal property and services.

§ 114-60.201 Policy.

It is the policy of the Department to document formally the receipt of all personal property, whether such property is acquired from commercial sources, fabricated in Government shops, donated, recovered, or obtained by transfer from another Government agency. Property received shall be recorded on a receiving report to provide a document of entry to the records and accounts and to substantiate the disbursement voucher. Appropriate receiving documents shall be prepared as soon as possible after receipt of the property. Special handling shall be given receiving reports involving time discounts.

§ 114-60.202 Basic receiving principles.

Certain basic principles must be observed by the accountable officer when assigning the responsibility for receiving Government property and the documentation of receipts. These are:

(a) *Acknowledging receipt of property.* The individual who signs the receiving report is certifying that the property or services listed thereon has been received and his signature serves as the basis for the expenditure of Government funds. All incoming shipments shall be physically counted and inspected to insure that the quantity ordered has been delivered and that articles received meet the specifications. Any defects or damages to the property shall be noted at time of inspection. Articles which require technical identification or inspection shall be examined by the receiving individual in conjunction with other qualified personnel.

(b) *Establishing accountability for property.* The accountable officer shall establish prescribed accountability records for all property acquired or entrusted to him immediately upon receipt of documents evidencing the receipt of such property.

(c) *Establishing initial responsibility for property.* The property officer, or individual acting in that capacity, assumes responsibility for all property received at the time the shipment is accepted and the receiving report is executed. The property officer retains this responsibility until relieved thereof by having another individual sign for the property, which action ordinarily takes place when the property is issued for use.

§ 114-60.203 Documentation of receipts.

Receiving report, form DI-102, illustrated in Appendix I, Subpart 114-60.1, may be used to provide the documentation prescribed in this subpart. Form DI-102 may be modified to satisfy individual Bureau or Office requirements at the discretion of the head of the Bureau or Office. If a modified receiving report form is adopted, an appropriate Bureau or Office number shall be assigned thereto. The following additional documents are authorized for use in documenting receipts of personal property.

(a) The receiving report copy of purchase order, invoice, voucher, standard form 44, when this form is used to make purchases.

(b) The receiving report copies of order, invoice, voucher, standard form 147, when this form is used to make purchases.

(c) Copies of individual Bureau purchase order forms, provided that copies thus used shall be appropriately designated as receiving report copies.

(d) Copies of commercial shop repair order forms, provided that copies so used show appropriate accounting information and are signed by an individual sufficiently familiar with the equipment being repaired to certify that the parts and services listed thereon have been received.

Subpart 114-60.3—Identification of Personal Property

SOURCE: 38 FR 13737, May 25, 1973, unless otherwise noted.

§ 114-60.300 Government ownership identification markings.

All Government property defined as nonexpendable (see IPMR 114-60.100), except that exempted as provided in § 114-60.301, shall be permanently marked to identify it as Government owned with either the name or initials of the owning bureau or office, preceded by the initials "U.S." Marking may be accomplished by any means which will produce a permanent marking and which is most adaptable to the particular item of property.

[38 FR 13737, May 25, 1973, as amended at 42 FR 42857, Aug. 25, 1977]

§ 114-60.301 Exemption.

Very small, delicate, or precision apparatus, which cannot be marked in a permanent manner without damage to the property, is exempted from any requirement for marking or numbering. However, the numbers assigned to items of capitalized property exempted in accordance with this section, shall be recorded on the property accountability records covering such property. (See subpart 114-60.8 of this part.)

§ 114-60.302 Assignment and display of property numbers.

Each item, or group of items of nonexpendable property, shall be assigned an identifying property number. Decimal suffixes may be added to the property number to identify individual items as determined by each bureau or office. The numbers assigned to items of capitalized property shall be entered on the property records covering such property.

(a) *Major items.* The larger, or more significant items of nonexpendable property, shall be marked with the property number assigned thereto. Property numbers need not be permanently affixed to property bearing a manufacturer's serial number, such as, office machines, motor vehicles, etc., but may be so marked at the discretion of the head of each bureau or office.

(b) *Minor items.* Hand tools, and other minor items of nonexpendable property, need not be marked with the identifying property number but may be so marked at the discretion of the head of each bureau or office. Such property shall, however, be marked to indicate Government ownership as provided in § 114-60.300.

§ 114-60.303 Items requiring special identification.

The following items of property shall display special identification:

(a) *Motor vehicles.* Except when exempted in accordance with Subpart 114-38.6 of this chapter, motor vehicles shall display identification markings as prescribed in Subparts 114-38.3 and 114-38.4 of this chapter.

(b) *Livestock.* Livestock shall be branded or marked in some acceptable manner to indicate Government ownership.

[38 FR 13737, May 25, 1973, as amended at 42 FR 42857, Aug. 25, 1977]

Subpart 114-60.4—Storage of Property

SOURCE: 38 FR 13738, May 25, 1973, unless otherwise noted.

§ 114-60.400 Scope of subpart.

This subpart prescribes basic requirements for the storage of equipment, materials, and supplies. It does not attempt to cover every conceivable condition or problem that will arise in connection with the storage of various commodities. With a reasonable exercise of judgment, as well as a reference to standards published by the National Fire Protection Association, and compliance with applicable safety techniques and standards, this subpart will assist each bureau and office in achieving the desired objectives.

§ 114-60.401 Objectives.

Storage objectives include such factors as maximum utilization of space consistent with adequate care and protection of property; positive item identification; effective conservation of time, labor, and equipment; and the rapid, easy movement of property from the storage area to the point of use or consumption. Storage methods and procedures vary according to the amount and type of available space, labor, equipment, and the quantity and type of property stored. The following basic objectives are recommended as guides in planning the storage of personal property.

(a) *Space and Labor.* Efficient storage demands the maximum utilization of space with a minimum amount of labor. Where practical, labor should be conserved by use of modern materials handling equipment and storage aids which permit stacking by unit loads rather than by individual container units.

(b) *Accessibility.* Fast-moving items should be stored in convenient locations from which they can be issued with minimum handling. Stocks of individual items or classes of items should be segregated to facilitate handling, issuing, and inventorying.

(c) *Protection.* Types of property should be stored according to the kind of protection required. Protection requirements will vary greatly with the types of commodities stocked. All items must be protected from fire and theft. Certain items require protection from dampness, heat, freezing, or extreme temperature changes. Others must be stored away from light and odors, protected from vermin infestation, or, because of their hazardous characteristics, stored separate from other stocks. These factors, as well as maximum protection of property against all causes of deterioration or destruction must be considered in selecting proper storage locations.

(d) *Arrangement.* Orderly arrangement is essential to efficient operation of storehouses. All items, whether stored in bins, bays, in bulk, or in original containers should be so arranged that nomenclature and quantity may be readily determined.

(e) *Rotation.* Stock rotation is based on the general storage principle of "first in, first out". The fact that many items for example, perishables, food stuffs, medicines, paints, chemicals, et cetera, are subject to deterioration or infestation, requires that the oldest stock be issued first.

§ 114-60.402 Storage facilities.

Adequate storage facilities shall be provided at each location to ensure the proper safeguarding of all Government property. Facilities required will vary largely between the projects and other activties of the various bureaus and offices of the Department. Actual requirements will depend upon such factors as, volume of property to be handled, characteristics of commodities to be stored, and nature of the operations.

(a) *Indoor storage.* Indoor storage areas should be arranged to obtain proper stock protection and maximum utilization of space within established floor load capacities, but should be subject to flexibility to provide for periodic changes in specific space requirements. Employees engaged in storehouse and storage operations must be instructed in safety and fire protection regulations pertaining to these operations.

(b) *Outdoor storage.* Storage yards for items not requiring covered protection shall be protected by locked fenced enclosures to the extent necessary to protect the Government's interest. Outside storage areas shall be prominently posted to clearly indicate that the property stored therein is U.S. Government property. Entrance to such areas should be restricted to authorized personnel only.

§ 114-60.403 Flammable materials.

Stocks of flammable materials, such as paints, oils, varnishes, etc., in quantities, exceeding 50 gallons, should be stored in a separate building, or in a fire-resistant room which is separated from stocks of other materials. Where lack of a suitable segregated storage building or room necessitates the storing of flammable materials in regular warehouse storage areas, it is essential that a restricted area of the warehouse be used where the greatest fire protection will be obtained. Bulk stocks of flammable liquids, such as gasoline, fuel oil, etc., which are dispensed by pumping arrangements, shall be stored in tanks or containers approved and installed in accordance with pertinent regulations of the National Fire Protection Association. All buildings, rooms, or other storage areas containing flammable materials shall be adequately ventilated. Such areas must be conspicuously posted and entrance to the areas restricted to admit only authorized personnel.

§ 114-60.404 Explosives.

Bureaus and offices engaged in programs requiring the storage of explosives should be guided by the recommendations contained in the Bureau of Mines "Employees Accident Prevention Handbook" (sec. 9). Copies of the handbook will generally be available for review at the nearest Bureau of Mines field office. Additional advice concerning the handling and storage of explosives may be obtained from the Pittsburgh Mining and Safety Research Center of the Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, Pa. 15213.

§ 114-60.405 Technical equipment.

Many items of a technical nature require special handling and storage protection. All such items should be stored in accordance with the manufacturer's recommendations. This will ensure that equipment will not deteriorate or become damaged due to improper storage.

§ 114-60.406 Watchmen.

Watchmen shall be provided in accordance with good practice and as necessary to protect the Government's interest from the standpoint of vandalism, theft, fire protection, et cetera.

Subpart 114-60.5—Classification of Property

§ 114-60.500 Responsibility.

Each bureau and office shall be responsible for classifying all items of personal property under its jurisdiction as expendable or nonexpendable within the meaning of these terms as defined in Subpart 114-60.1 of this part.

(a) Nonexpendable property shall be further classified to indicate whether it is to be capitalized, noncapitalized, or treated as materials and supplies for physical and financial control purposes.

(b) The organizational element of the headquarters office of the bureau or office which is responsible for directing the property management program shall classify personal property in accordance with the provisions of this subpart to insure uniformity at all organizational levels of the bureau or office. This requirement contemplates that:

(1) A listing of the nonexpendable property items commonly used by the bureau or office will be developed indicating the classification placed on each item or each group of items,

(2) The listing will be updated from time to time as new items not previously classified are acquired, and

(3) The classification listing will be promulgated for the use and guidance of all accountable officers in the bureau or office and their property management staffs.

[38 FR 16064, June 20, 1973]

§ 114-60.501 Classification criteria.

In determining the proper classification of the various items of nonexpendable property, consideration shall be given to such factors as acquisition cost, expected useful service life, susceptibility to personal uses, nature of use, cost of maintaining accountability and/or responsibility records compared with cost of possible increased losses if such records are not maintained, and any other factors which may have a bearing on the classification. It will be necessary to use good judgment in applying these factors to individual items since the classification placed on an item will dictate the type of inventory control and accounting records required to be maintained therefor.

(a) As a general rule, any single item of property having an original cost value of more than $300 when new should be capitalized. Classification of substantially similar items should be consistent, however. In cases where a portion of the total inventory of similar items is acquired at more than $300 and a portion at less than $300, all items should either be classified as capitalized or noncapitalized.

(b) Property may also be classified as capitalized for accountability control purposes even though the original cost value is under the guideline figure. Sensitive items requiring such control include small electronic calculators, tape recorders, radios, photographic and projection equipment, typewriters and other office machines, firearms, survey instruments, binoculars, power tools, or other equipment which because of its general use characteristics and ease of transport is particularly susceptible to misappropriation or theft.

(c) All office furniture may be exempted from classification as capitalized equipment at the discretion of the bureau or office head, provided that suitable custodial controls are otherwise in effect to properly safeguard the Government-owned property.

[38 FR 16064, June 20, 1973, as amended at 40 FR 42746, Sept. 16, 1975]

Subpart 114-60.6—Stores Records

SOURCE: 38 FR 16064, June 20, 1973, unless otherwise noted.

§ 114-60.600 General ledger control account.

The value of stores property acquired and disposed of shall be recorded in a general ledger control account for stores where the quantity or value of items stocked, volume of work, or other factors necessitate the establishment of a stores account. In the discretion of the head of each bureau or office, acquisitions of stores property in the following categories need not be recorded in a general ledger control amount, but may be charged directly to the program or project benefited.

(a) Materials and supplies purchased for immediate application on a specific project or job.

(b) Materials and supplies purchased for single purposes, such as those procured against a bill of materials for a specific construction project, even though such materials may be stored for future use, consumption, or installation. In such cases, however, card records showing quantity and descriptive information of the items involved shall be maintained as necessary to insure proper management and control of such inventories.

§ 114-60.601 Storehouse records.

The general ledger control account for stores shall be supported by detailed card records to adequately identify the units of property, the costs of which are charged to the stores account; provide a permanent record of the acquisition and disposition of all stores items; and provide information needed for inventory control and management purposes. These records shall be subject to both internal and external audit and all entries made therein must be adequately supported by valid acquisition and disposal documents. Form DI-101 may be used for this purpose (see § 114-60.109).

§ 114-60.602 Periodic reconciliation.

The total value of stores property recorded in the storehouse card records shall be compared with the balance shown in the general ledger control account for stores at least once each year. Any differences disclosed as a result of this comparison shall be reconciled and adjusted in accordance with sound accounting practices and as necessary to bring the subsidiary records and control account monetary balances into complete agreement.

§ 114-60.603 Designation of employees authorized to withdraw property from storehouse.

To insure that property will not be issued indiscriminately, the official having accountability for the property (accountable officer) should designate, in writing, an essential number of employees to whom materials and supplies may be issued, and/or to whom responsibility for nonexpendable property may be assigned.

§ 114-60.604 Documentation of issues.

All issues of stores property shall be adequately documented and a receipt obtained at the time the property is removed from the storehouse or other storage area. Form DI-104 may be used for this purpose (see § 114-60.109). Issues of nonexpendable property will be documented as prescribed in Subpart 114-60.7.

§ 114-60.605 Records and control of tax-free alcohol.

Bureaus and Offices are responsible for establishing inventory controls at each installation authorized to procure and use tax-free alcohol to ensure that:

(a) Purchases of tax-free alcohol are restricted to amounts reasonably commensurate with foreseeable requirements.

(b) Inventories are maintained at minimum levels consistent with anticipated needs.

(c) Receipts and issues from inventory are documented and processed in conformance with the formal stores accounting methods prescribed in this Subpart 114-60.6.

(d) Inventory and working stocks of tax-free alcohol are stored so as to restrict access to designated personnel.

(e) Withdrawals from inventory are made only upon written authorization reflecting the use to be made of the alcohol and the exact quantity to be issued.

[38 FR 31535, Nov. 15, 1973]

§ 114-60.605-1 Annual review and report of tax-free alcohol.

(a) *Review.* An annual review shall be made of all tax-free alcohol transactions to include:

(1) Verification of inventory and working stock balances.

(2) Analysis of purchases, receipts, and issues.

(3) Verification of official use.

(4) Full disclosure and reconciliation of unaccountable quantities.

(5) Checking of entire alcohol handling operation for compliance with applicable regulations.

(b) *Report.* If the annual review discloses (1) excessive purchases or use of alcohol in relation to the work performed, (2) inadequate physical or record controls, or (3) any indication of possible unauthorized use, a written report of such disclosure, including supporting details, shall be made to the responsible management official for appropriate remedial action.

[38 FR 31535, Nov. 15, 1973]

Subpart 114-60.7—Nonexpendable Property Records

SOURCE: 38 FR 15723, June 15, 1973, unless otherwise noted.

§ 114-60.700 General ledger control account.

The value of capitalized property acquired and disposed of shall be recorded in a general ledger control account for equipment. Determination as to the items of nonexpendable property which are to be capitalized in accordance with Subpart 114-60.5 of this part shall be made at the time the property is received and the cost thereof charged to the appropriate equipment account from the receiving report document.

§ 114-60.701 Accountability records.

(a) *Capitalized property.* The general ledger control account for capitalized property shall be supported by detailed property accountability records to identify the items of property, the costs of which are charged to equipment accounts; provide a permanent record of the acquisition and disposition of all capitalized property, and provide information needed for inventory control and management purposes.

(1) Form DI-100 may be used for accountability record purposes. (See § 114-60.109.)

(2) Property accountability records shall be established from the receiving report immediately upon receipt of the property. These records shall be subject to both internal and external audit and all entries made therein must be supported by valid acquisition and disposal documents.

(b) *Capitalized property in custody of contractors or grantees.* Accountability records shall be established and maintained for capitalized property released to the custody of a contractor or grantee in accordance with the terms of a contract or grant which terms provide that title to the property will remain vested in the United States. This property shall be subject to the same inventory, reconciliation, and management controls as any other capitalized property held by the Bureau or Office.

(c) *Noncapitalized property.* Accountability records of the type referred to in paragraph (a) of this section are not required to be maintained for noncapitalized property. Rather the establishment of such records is discretionary with the head of each bureau or office.

§ 114-60.702 Reconciliation.

The total value of capitalized property recorded in the accountability records shall be compared with the related balances shown in the general ledger control account at least once a year. Any differences disclosed as a result of this comparison shall be reconciled and adjusted in accordance with sound accounting practices and as necessary to bring the accountability records and control account monetary balances into complete agreement.

§ 114-60.703 Transfer of accountability.

When an accountable officer is to be relieved of accountability, the incoming accountable officer shall be required to accept formally full accountability and responsibility for all Government-owned property involved in the transfer of accountability. This may be accomplished in either of two ways as follows:

(a) An itemized list of property of all classes may be compiled from the accountability records, showing as a minimum, the quantity and description of the items involved. Receipt of the property shall be acknowledged thereon by the incoming accountable officer, after such verification and inventory as the incoming officer may deem necessary to satisfy himself as to its correctness. Prior to transfer of the property, any overages which may be disclosed as the result of a physical inventory shall be taken up in the records and accounts of the outgoing accountable officer, and any shortages adjusted. Inventory of Property, Form DI-106, and Continuation Sheet, Form DI-106a (see subpart 114-60.1 of this part, Appendixes VI and VII), may be used for the purpose of compiling the list of property referred to above, and for formally documenting transfer of accountability. This list and receipt shall be prepared in triplicate, the original to be retained by the officer relieved, the duplicate to be filed by the incoming officer and the triplicate forwarded to the head of the bureau or office concerned.

(b) If the incoming officer is satisfied that the property records are accurate and he is willing to assume liability for all the property recorded therein without physical verification, he may, as an alternate, execute a certificate in the following or similar form:

____
(Date)

I, (Name), incoming accountable officer, have satisfied myself that the expendable and nonexpendable property accountability records of (Project or Office) are accurate; and that the property recorded therein is physically on hand as of this date.

I hereby agree to accept full responsibility and pecuniary liability for property as recorded and waive any requirement for a physical inventory as a condition to such acceptance.

____
(Signature)

____
(Title)

The original certificate shall be forwarded to the head of the bureau or office concerned, and each party to the transfer of accountability shall retain a copy.

§ 114-60.704 Responsibility records.

(a) *Capitalized property.* To fix the responsibility for capitalized property, a receipt shall be obtained when such property is issued to individuals or transferred from the custody of one individual to another. Receipt for Property, Form DI-105 (see Appendix V, Subpart 114-60.1 of this part) may be used for this purpose. Such receipts shall be filed in a manner which will allow the total holdings of capitalized property in the possession of each employee to be determined readily. However, certain items, although in use, but not in the custody of any one employee may be controlled by means of location records in lieu of the receipt for property procedure described herein, at the discretion of the head of each bureau or office. Examples of items which can generally be controlled by use of location records are major shop and laboratory equipment, and similar items which are normally assigned for use by several different employees rather than for specific use of a single individual. When this procedure is used, responsibility for such property shall remain vested in the accountable officer. In any event, employees having Government-owned property in their custody, whether capitalized or not and, whether or not they have signed a receipt for same, may be adjudged financially liable for its loss or damage by proper board of survey action.

(b) *Noncapitalized property.* Responsibility records of the type prescribed in paragraph (a) of this section, for capitalized property are not required to be maintained for noncapitalized property. Bureaus and offices shall, however, insure that appropriate safeguards and controls are established at the operating office level whenever experience at the location indicates that such action is necessary to guard against:

(1) Excessive losses of any specific item,

(2) Excessive purchases or withdrawals when compared to program requirements for any specific item, or

(3) Use of property for other than official purposes.

§ 114-60.705 Property clearance.

Upon separation or transfer of an employee, a physical inventory shall be taken of all property in his custody. If all property is satisfactorily accounted for, property clearance shall be given the employee. Certification for final salary payment shall be withheld until this clearance is obtained. Payroll units shall be notified when such clearance has been granted which shall be prior to issuance of the employee's final salary check.

Subpart 114-60.8—Periodic Inventories of Personal Property

Source: 38 FR 31535, Nov. 15, 1973, unless otherwise noted.

§ 114-60.800 Physical inventories.

Physical inventories of personal property shall be conducted at periodic intervals in accordance with the following:

(a) *Capitalized property.* A complete physical inventory shall be taken of all capitalized property at least once biennially, but may be taken at more frequent intervals at the discretion of the head of each Bureau or Office. A physical inventory shall be taken at intervals more frequently than biennially whenever experience at any given location or with any given item indicates that this action is necessary for effective property accounting, utilization, or control.

(b) *Noncapitalized property.* The head of each Bureau and Office shall prescribe the manner and extent to which noncapitalized property shall be inventoried within the Bureau or Office, except that in any event:

(1) An annual physical inventory shall be taken of any noncapitalized property the cost of which is recorded in a stores account. (See Subpart 114-60.6.)

(2) A physical inventory shall be taken of all noncapitalized property in custody of an individual employee upon his transfer or separation. Any items of property not properly accounted for at time of transfer or sep-

aration shall be made the subject of a Report of Survey or Certificate of loss in accordance with the provisions of Subpart 114-60.9.

(c) *Expendable property.* A complete physical inventory shall be taken at least once each year of all expendable property (see definition in § 114-60.102(e)) the cost of which is recorded in a stores account. Materials and supplies and other expendable property carried as cupboard stocks (where the cost of the items has been charged to expense accounts), shall be subjected to periodic visual inspection to prevent over or under stocking and to ensure that any unneeded items are disposed of on a progressive basis.

§ 114-60.801 Responsibility.

The accountable officer is responsible for ensuring that the prescribed physical inventories are conducted. The accountable officer may, however, delegate the responsibility for actually taking the inventory to other employees, such as, members of the property management staff, designated inventory teams, or he may require that each employee submit a physical inventory of the property in his custody, certifying to its correctness. The nature of the operations and availability of personnel will generally dictate the method best suited to the individual office or location.

§ 114-60.802 Special inventories.

Special inventories may be required during audits; when there is a change of accountable officers; or when other circumstances arise requiring an inventory. Whenever there is a change of accountable officers, the procedures outlined in Subpart 114-60.7 for transferring accountability shall be observed.

§ 114-60.803 Periodic reconciliation.

The results of the prescribed physical inventories shall be compared with the quantities recorded in the accountability, responsibility, stores, and such other records as may be maintained for inventory management purposes. Any differences between the physical count of an item and the quantity balance reflected in the property records for the item shall be promptly reconciled and adjusted. Such adjustments shall be appropriately documented. Reconciliation and adjustment shall be completed within 120 days after the effective date of the physical inventory of the property.

§ 114-60.804 Inventory report.

After completing the physical counting, reconciliation, and adjustment process, the accountable officer shall certify in writing to his central office that such inventories have been completed and that subsidiary property records reflect actual quantities on hand and are in agreement with general ledger control accounts. In addition to this certification, bureaus and offices at the Washington, D.C. level, or regional or area offices thereof, may require that periodic inventory reports be submitted in detail including the results of the physical inventory and the reconciliation with property and accounting records. Inventory of Property, Form DI-106, and Continuation Sheet, Form DI-106a or a modification of these forms, may be used for reporting purposes and for recording the results of the inventory at the discretion of the head of each bureau or office.

Subpart 114-60.9—Board of Survey Procedures

Source: 39 FR 34281, Sept. 24, 1974, unless otherwise noted.

§ 114-60.900 Scope of subpart.

This subpart establishes the basic requirements for the appointment of boards of survey or other survey authorities to investigate circumstances surrounding lost, stolen, damaged, and unserviceable property, and to report findings and make recommendations for (a) relieving the accountable officer of accountability for the property, and (b) establishing the possibility of personal liability for damaged or missing property. It also provides for the review of any survey action by an appropriate reviewing authority for final determination as to financial liability and disposition of the property.

§ 114-60.901 Requirement for survey action.

(a) Survey action is required to document the circumstances under which property is lost, damaged, stolen, or determined to be unserviceable. Accountable officers shall be required to request relief of responsibility for such property by initiating either a Report of Survey, Form DI-103, illustrated in Appendix VIII of Subpart 114-60.1, or a Certificate of Loss or Damage under the circumstances set forth in § 114-60.902(b). Complete documentation is essential, and information provided shall be such that Boards of Survey and other reviewing officials will be able to make intelligent and impartial decisions concerning the disposition of the property and determinations as to any financial liability in accordance with § 114-60.106.

(b) Exceptions: Survey action is not required for the following types of property disposal actions which are otherwise authorized and amply documented:

(1) Transfer of available property (as defined in IPMR 114-43.001-50) to another accountable office within the holding bureau or within the Department;

(2) Transfer of excess property to another Federal agency;

(3) Donation of surplus personal property to eligible recipients in accordance with FPMR 101-44 and subject to the limitations specified in IPMR 114-44.5;

(4) Exchange/sale in accordance with FPMR 101-46; and

(5) Sale of surplus property, including scrap, when such property has been released by the General Services Administration for disposal by the holding activity.

[39 FR 34281, Sept. 24, 1974, as amended at 42 FR 42857, Aug. 25, 1977]

§ 114-60.902 Documentation required.

(a) Form DI-103, Report of Survey, is required for:

(1) Loss of property when the original acquisition cost exceeds $100.

(2) Property damage that exceeds $100 (except for damage to a Government vehicle resulting from a motor vehicle accident that is investigated and reported in accordance with 485 DM 4, in which case there is no need for a Report of Survey unless there is a need to determine whether or not an employee should be held financially responsible for the damage. Any recommendation or determination as to financial liability for motor vehicle damage should be based on the official report of the investigation, and then only after final disposition of any tort claim that may be involved or it is determined that there is no probability that a tort claim will be filed).

(3) Condemnation of property for salvage, reduction to scrap, destruction, and abandonment, regardless of circumstances, when the original acquisition cost of the property involved exceeds $100.

(4) Donation to public bodies as set forth in IPMR 114-44.5.

(5) Any circumstance, except motor vehicle accidents, in which there is a possibility of a claim against the Government in connection with the administration, care, and use of Government property.

(b) A Certificate of Loss or Damage may be used in lieu of a Report of Survey to document loss of, or damage to, property in those instances where the total amount of the loss or the extent of damage to all items involved does not exceed $100, and possible claims against the Government are not involved. Form DI-103 may be used as a Certificate of Loss or Damage provided the title "Report of Survey" is obliterated and the title "Certificate of Loss or Damage" is substituted therefor. Alternate procedures are authorized provided they require, as a minimum, the responsible employee's certification as to the circumstances under which the property was lost or damaged, the findings and recommendations of the employee's supervisor or the responsible property officer, and review and approval by a responsible Reviewing Officer designated in accordance with § 114-60.905.

(c) Any form used shall be prepared in triplicate (as a minimum), with one copy being retained for record purposes by the initiating office. The original and other copy (or copies) will be submitted through channels for approval or disapproval. When approved, the original will be used to make appropriate adjustments to the property records, after which a copy will be annotated and forwarded to the initiating office.

[39 FR 34281, Sept. 24, 1974, as amended at 42 FR 42857, Aug. 25, 1977]

§ 114-60.903 Survey authority.

When survey action is required, it may be conducted by the following authorities:

(a) A Board of Survey, consisting of not less than three members appointed by the head of the bureau or office, the regional director or comparable official, or the accountable officer. Neither the accountable officer nor the employee responsible for the property to be surveyed shall be a member of the Board of Survey. A standing Board may be appointed to act on all cases, or the Board may be selected on a case-by-case basis.

(b) A traveling survey officer appointed by the head of the bureau or office or by the regional director or comparable official. Traveling survey officers may conduct surveys, report findings and recommendations, and approve Reports of Survey (made by themselves or by others) except those relieving themselves or their own administrative supervisors.

(c) A local survey officer appointed by the accountable officer. Appointment of a local survey officer pursuant to this paragraph shall be for the single purpose of simplifying and facilitating surveys of property which has been rendered unserviceable due to fair wear and tear in service, and this authority shall not be extended to any other circumstance. Local survey officers may (1) inspect wornout property, (2) make recommendations as to what disposition should be made of the property, and (3) witness the destruction and/or reduction to scrap of the property after such disposition has been approved by the reviewing authority, except in those instances where the Property Officer is appointed as the local survey officer.

(d) Special Boards of Survey shall be appointed (by the head of the bureau or office or by the regional director or comparable official) to investigate unusual losses such as those resulting from disaster (e.g., fire, flood, drought, etc.). Copies of special reports rendered by such Boards may be made attachments to Report of Survey, Form DI-103, to comprise a document of entry to property records and accounts.

§ 114-60.904 Responsibilities of a Board of Survey.

(a) Boards of Survey and Survey Officers must fully investigate matters submitted to them. They will call for all evidence obtainable and will not limit inquiries to evidence or statements presented by parties in interest. They will examine and verify all evidence presented and available, and make recommendations consistent with the circumstances and findings disclosed by such examination. Where additional data or proof is required to fully support a finding, it should be developed by the Board of Survey through impartial investigation in which the legitimate interests of both the individual and the Government are completely protected. Recommendations must be supported by logical findings. Facts, circumstances, conclusions, findings, and recommendations must be clearly stated and fully documented when it is determined that an employee or employees should be held financially liable. Complete data must be available in the event of an employee appeal through Bureau and Departmental grievance procedures (370 DM 771).

(b) In the case of property loss/damage/destruction, the Board of Survey will follow the guidelines set forth in § 114-60.106.

(c) Boards of Survey should carefully examine property being surveyed. Where the Board finds that the property has further usefulness, either as is or after justifiable repairs or reconditioning, it may recommend that the property be continued in service.

(d) Where final Board of Survey action directs the destruction or reduction to scrap of property, such disposition should be witnessed by at least one member of the Survey Board. In those instances where a member of the survey board cannot witness the reduction of property to scrap, the

Board will appoint a witnessing officer who shall be a responsible official other than the accountable officer or a previous custodian of the property.

§ 114-60.905 Reviewing authority.

Authority to approve or disapprove Reports of Survey and Certificates of Loss or Damage shall be vested in a reviewing authority. This reviewing authority shall be (a) the head of the bureau or office, (b) the head of a regional, area, or comparable office, or (c) traveling survey officers designated by either of the foregoing designated to serve as a reviewing authority such as provided in § 114-60.903(b). With the exception of traveling survey officers as provided in § 114-60.903(b), a reviewing authority shall not include any member of the Board of Survey which acted in the particular case under consideration. Under no circumstances shall a reviewing authority include the accountable officer for the property involved.

NOTE: The Department of Interior Manuals (DM's) referred to in this document have not been filed with the original document, and these references are not to be considered incorporated by reference within the meaning of 5 U.S.C. 552 and 1 CFR Part 51.

Subpart 114-60.10—Property Management Standards for Grants

SOURCE: 42 FR 6814, Feb. 4, 1977, unless otherwise noted.

§ 114-60.1000 Scope of subpart.

This subpart implements, and provides reproductions of, the Property Management Standards prescribed by Office of Management and Budget Circular No. A-102 Revised August 24, 1977, and Office of Management and Budget Circular No. A-110.

[42 FR 56329, Oct. 25, 1977]

§ 114-60.1001 State and local governments.

Under a grant-in-aid to any State or local government, property shall be managed in accordance with the standards and procedures prescribed in Attachment N of OMB Circular No. A-102, Revised August 24, 1977 (see Appendix A of this subpart).

[42 FR 56329, Oct. 25, 1977]

§ 114-60.1002 Institutions of higher education, hospitals, and other private organizations.

(a) Under a grant to, or other agreement with, an institution of higher education, a hospital, or other nonprofit organization, property shall be managed in accordance with the standards and procedures prescribed in Attachment N of OMB Circular No. A-110 (See Appendix B of this subpart) unless otherwise authorized by statute such as Pub. L. 85-934 (42 U.S.C. 1892) or Pub. L. 92-175 (42 U.S.C. 1961c-8).

(1) As used in this subpart, the term "grant" means money or property provided in lieu of money paid or furnished by the Federal Government to recipients under programs that provide financial assisance or that provide support or stimulation to accomplish a public purpose. The term "other agreements" does not include contracts which are required to be entered into and administered under procurement laws and regulations (see paragraph 6 of OMB Circular No. A-110).

(2) The Office of Management and Budget has granted a waiver to the copyright provision set forth in sec. 8b., Attachment N, OMB Circular No. A-110. This waiver permits agencies not to require inclusion of this provision when the grants or other agreements are for the purpose of educating or training students in a particular career field or specialized area.

(b) 42 U.S.C. 1892 provides statutory authority for the vesting of title to equipment purchased with grant (or contract) funds when the grant (or contract) is for the conduct of basic or applied scientific research at nonprofit institutions of higher education or nonprofit organizations whose primary purpose is the conduct of scientific research.

(c) 42 U.S.C. 1961c-8 provides statutory authority for the conveyance of excess personal property to a cooperating institute, educational institution, or non-profit organization when such property is for use in furtherance of the purposes of the Water Resources Research Act of 1964.

[42 FR 6814, Feb. 4, 1977, as amended at 42 FR 42857, Aug. 25, 1977]

APPENDIX A—PROPERTY MANAGEMENT STANDARDS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS

ATTACHMENT N—CIRCULAR NO. A-102

PROPERTY MANAGEMENT STANDARDS

1. This attachment prescribes uniform standards governing the utilization and disposition of property furnished by the Federal Government or acquired in whole or in part with Federal funds or whose cost was charged to a project supported by a Federal grant. Federal grantor agencies shall require grantees to observe these standards under grants from the Federal Government and shall not impose additional requirements unless specifically required by Federal law. The grantees shall be authorized to use their own property management standards and procedures as long as the provisions of this Attachment are included.

2. The following definitions apply for the purpose of this Attachment:

(a) *Real property.* Real property means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

(b) *Personal property.* Personal property of any kind except real property. It may be tangible—having physical existence, or intangible—having no physical existence, such as patents, inventions, and copyrights.

(c) *Nonexpendable personal property.* Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.

(d) *Expendable personal property.* Expendable personal property refers to all tangible personal property other than nonexpendable property.

(e) *Excess property.* Excess property means property under the control of any Federal agency which, as determined by the head thereof, is no longer required for its needs or discharge of its responsibilities.

(f) *Acquisition cost of purchased nonexpendable personal property.* Acquisition cost of an item of purchased nonexpendable personal property means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty, or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

(g) *Exempt property.* Exempt property means tangible personal property acquired in whole or in part with Federal funds, and title to which is vested in the recipient without further obligation to the Federal Government except as provided in subparagraph 6a of this appendix. Such unconditional vesting of title will be pursuant to any Federal legislation that provides the Federal sponsoring agency with adequate authority.

3. *Real property.* Each Federal grantor agency shall prescribe requirements for grantees concerning the use and disposition of real property funded partly or wholly by the Federal Government. Unless otherwise provided by statute, such requirements, as a minimum, shall contain the following:

(a) Title to real property shall vest in the recipient subject to the condition that the grantee shall use the real property for the authorized purpose of the original grant as long as needed.

(b) The grantee shall obtain approval by the grantor agency for the use of the real property in other projects when the grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs, or programs that have purposes consistent with those authorized for support by the grantor.

(c) When the real property is no longer needed as provided in (a) and (b) above, the grantee shall request disposition instructions from the Federal agency or its successor Federal agency. The Federal agency shall observe the following rules in the disposition instructions:

(1) The grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(2) The grantee may be directed to sell the property under guidelines provided by the Federal agency and pay the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the grantee shall be entitled to compensation computed by applying the grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

4. *Federally owned nonexpendable personal property.* Title to federally owned property vested in the Federal Government. Recipients shall submit annually an inventory listing of federally owned property in their custody to the Federal agency. Upon completion of the agreement or when the property is no longer needed, the grantee shall report the property to the Federal agency for further agency utilization.

If the Federal agency has no further need for the property, it shall be declared excess and reported to the General Services Administration. Appropriate disposition instructions will be issued to the recipient after completion of the Federal agency review.

5. *Exempt property.* When statutory authority exists title to nonexpendable personal property acquired with project funds shall be vested in the recipient upon acquisition unless it is determined that to do so is not in the furtherance of the objectives of the Federal sponsoring agency. When title is vested in the recipient the recipient shall have no other obligation or accountability to the Federal Government for its use or dispositon except as provided in paragraph 6a of this appendix.

6. *Other nonexpendable property.* When other nonexpendable tangible property is acquired by a grantee with project funds title shall not be taken by the Federal Government but shall vest in the grantee subject to the following conditions:

(a) *Right to transfer title.* For items of nonexpendable personal property having a unit acquisition cost of $1,000 or more, the Federal agency may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following standards.

(1) The property shall be appropriately identified in the grant or otherwise made known to the grantee in writing.

(2) The Federal agency shall issue disposition instructions within 120 calendar days after the end of the Federal support or the project for which it was acquired. If the Federal agency fails to issue disposition instructions within the 120 calendar-day period, the grantee shall apply the standards of paragraphs 6(b) and 6(c) of this appendix, as appropriate.

(3) When the Federal agency exercises its right to take title, the personal property shall be subject to the provisions for federally-owned nonexpendable property discussed in paragraph 4 of this appendix.

(4) When title is transferred either to the Federal Government or to a third party, the provisions of paragraph 6(c)(2)(b) of this appendix should be followed.

(b) *Use of other tangible nonexpendable property for which the grantee has title.*

(1) The grantee shall use the property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original project or program, the grantee shall use the property in connection with its other federally sponsored activities, in the following order of priority:

(a) Activities sponsored by the same Federal agency.

(b) Activities sponsored by other Federal agencies.

(2) *Shared use.* During the time that nonexpendable personal property is held for use on the project or program for which it was acquired, the grantee shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by the Federal agency that financed the property; second preference shall be given to projects or programs sponsored by other Federal agencies. If the property is owned by the Federal Government use on other activities not sponsored by the Federal Government shall be permissible if authorized by the Federal agency. User charges should be considered if appropriate.

(c) *Disposition of other nonexpendable property.* When the grantee no longer needs the property as provided in paragraph 6b of this appendix, the property may be used for other activities in accordance with the following standards:

(1) Nonexpendable property with a unit acquisition cost of less than $1,000. The grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(2) Nonexpendable personal property with a unit acquisition cost of $1,000 or more. The grantee may retain the property for other uses provided that compensation is made to the original Federal agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of original project or program to the current fair market value of the property. If the grantee has no need for the property and

the property has further use value, the grantee shall request disposition instructions from the original grantor agency.

The Federal agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Federal agency to determine whether a requirement for the property exists in other Federal agencies. The Federal agency shall issue instructions to the grantee no later than 120 days after the grantee request and the following procedures shall govern:

(a) If so instructed or if disposition instructions are not issued within 120 calendar days after the grantee's request, the grantee shall sell the property and reimburse the Federal agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the grantee shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is greater, for the grantee's selling and handling expenses.

(b) If the grantee is instructed to ship the property elsewhere the grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(c) If the grantee is instructed to otherwise dispose of the property, the grantee shall be reimbursed by the Federal agency for such costs incurred in its disposition.

(d) *Property management standards for nonexpendable property.* The grantee's property management standards for nonexpendable personal property shall include the following procedural requirements:

(1) Property records shall be maintained accurately and shall include:

(a) A descripition of the property.

(b) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(c) Source of the property including grant or other agreement number.

(d) Whether title vests in the grantee or the Federal Government.

(e) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(f) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

(g) Location, use, and condition of the property and the date the information was reported.

(h) Unit acquisition cost.

(i) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a grantee compensates the Federal agency for its share.

(2) Property owned by the Federal Government must be marked to indicate Federal ownership.

(3) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The grantee shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, of theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the grantee shall promptly notify the Federal agency.

(5) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(6) Where the grantee is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

7. *Expendable personal property.* Title to expendable personal property shall vest in the grantee upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or completion of the grant and if the property is not needed for any other federally sponsored project or program, the grantee shall retain the property for use on nonfederally sponsored activities or sell it, but must in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

8. *Intangible property.*

(a) *Inventions and patents.* If any program produces patentable items, patent rights, processes, or inventions, in the course of work sponsored by the Federal Government, such fact shall be promptly and fully reported to the Federal agency. Unless there is a prior agreement between the grantee and the Federal agency on disposition of such items, the Federal agency shall determine whether protection on the invention or discovery shall be sought. The Federal agency will also determine how the rights in the invention or discovery, including rights under any patent issued thereon, shall be allocated and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and statement of Government Patent Policy as printed in 36 FR 16889).

(b) *Copyrights.* Except as otherwise provided in the terms and conditions of the agreement the author or the grantee organization is free to copyright any books, publications, or other copyrightable materials developed in the course of or under a Federal agreement, but the Federal agency shall reserve a royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

9. *Excess personal property.* When title to excess property is vested in grantees such property shall be accounted for and disposed of in accordance with paragraphs 6(c) and 6(d) of this attachment.

[42 FR 56329, Oct. 25, 1977]

App. B

Appendix B—Property Management Standards for Grants—Educational Institutions, Hospitals, and Other Nonprofit Organizations

[Circular No. A-110, Attachment N; Property Management Standards]

1. This attachment prescribes uniform standards governing management of property furnished by the Federal Government or whose cost was charged to a project supported by a Federal grant or other agreement. Federal sponsoring agencies shall require recipients to observe these standards under grants and other agreements and shall not impose additional requirements unless specifically required by Federal law. The recipient may use its own property management standards and procedures provided it observes the provisions of this attachment. This attachment also applies to subrecipients as referred to in paragraph 5 of the basic circular.

2. The following definitions apply for the purpose of this attachment:

a. *Real property.*—Real property means land, including land improvements, structures and appurtenances thereto, but excluding movable machinery and equipment.

b. *Personal property.*—Personal property of any kind except real property. It may be tangible—having physical existence, or intangible—having no physical existence, such as patents, inventions and copyrights.

c. *Nonexpendable personal property.*—Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit exempt that recipients subject to Cost Accounting Standards Board regulations may use the CASB standard of $500 per unit and useful life of two years. A recipient may use its own definition of nonexpendable personal property provided that the definition, would at least include all tangible personal property as defined above.

d. *Expendable personal property.*—Expendable personal property refers to all tangible personal property other than nonexpendable property.

e. *Excess property.*—Excess property means property under the control of any Federal agency that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

f. *Acquisition cost of purchased nonexpendable personal property.*—Acquisition cost of an item of purchased nonexpendable personal property means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices.

g. *Exempt property.*—Exempt property means tangible personal property acquired in whole or in part with Federal funds, and title to which is vested in the recipient without further obligation to the Federal Government except as provided in paragraph 6a below. Such unconditional vesting of title will be pursuant to any Federal legislation that provides the Federal sponsoring agency with adequate authority.

3. *Real property.*—Each Federal sponsoring agency shall prescribe requirements for recipients concerning the use and disposition of real property acquired partly or wholly under grants or other agreements. Unless otherwise provided by statute, such requirements, as a minimum, shall contain the following:

a. Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project, as long as it is needed.

b. The recipient shall obtain approval by the Federal sponsoring agency for the use of real property in other projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under other federally sponsored projects (i.e., grants or other agreements) or programs that have purposes consistent with those authorized for support by the Federal sponsoring agency.

c. When the real property is no longer needed as provided in a and b above, the recipient shall request disposition instructions from the Federal sponsoring agency or its successor Federal sponsoring agency. The Federal sponsoring agency shall observe the following rules in the disposition instructions:

(1) The recipient may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(2) The recipient may be directed to sell the property under guidelines provided by the Federal sponsoring agency and pay the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The recipient may be directed to transfer title to the property to the Federal Government provided that in such cases the recipient shall be entitled to compensation computed by applying the recipient's percentage of participation in the cost of the program or project to the current fair market value of the property.

4. *Federally-owned nonexpendable personal property.*—Title to federally-owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally-owned property in their custody to the Federal sponsoring agency. Upon completion of the agreement or when the property is no longer needed, the recipient shall report the property to the Federal sponsoring agency for further agency utilization.

If the Federal sponsoring agency has no further need for the property, it shall be declared excess and reported to the General Services Administration. Appropriate disposition instructions will be issued to the recipient after completion of the Federal agency review.

5. *Exempt property.*—When statutory authority exists, (e.g., Pub. L. 85-934, 42 U.S.C. 1892) title to nonexpendable personal property acquired with project funds, shall be vested in the recipient upon acquisition unless it is determined that to do so is not in furtherance of the objectives of the Federal sponsoring agency. When title is vested in the recipient, the recipient shall have no other obligation or accountability to the Federal Government for its use or disposition except as provided in 6a below.

6. *Other nonexpendable property.*—When other nonexpendable tangible personal property is acquired by a recipient with project funds, title shall not be taken by the Federal Government but shall vest in the recipient subject to the following conditions:

a. *Right to transfer title.*—For items of nonexpendable personal property having a unit acquisition cost of $1,000 or more, the Federal sponsoring agency may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following standards:

(1) The property shall be appropriately identified in the grant or other agreement or otherwise made known to the recipient in writing.

(2) The Federal sponsoring agency shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal sponsoring agency fails to issue disposition instructions within the 120 calendar day period, the recipient shall apply the standards of paragraphs 6b and 6c as appropriate.

(3) When the Federal sponsoring agency exercises its right to take title, the personal property shall be subject to the provisions for federally-owned nonexpendable property discussed in paragraph 4, above.

(4) When title is transferred either to the Federal Government or to a third party the provisions of paragraph 6c(2)(b) should be followed.

b. *Use of other tangible nonexpendable property for which the recipient has title.*

(1) The recipient shall use the property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original project or program, the recipient shall use the property in connection with its other federally sponsored activities, in the following order of priority;

(a) Activities sponsored by the same Federal agency.

(b) Activities sponsored by other Federal agencies.

(2) *Shared use.*—During the time that nonexempt nonexpendable personal property is held for use on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other

use shall be given to other projects or programs sponsored by the Federal agency that financed the property; second preference shall be given to projects or programs sponsored by other Federal agencies. If the property is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by the Federal agency. User charges should be considered if appropriate.

c. *Disposition of other nonexpendable property.*—When the recipient no longer needs the property as provided in 6b above, the property may be used for other activities in accordance with the following standards:

(1) *Nonexpendable property with a unit acquisition cost of less than $1,000.*—The recipient may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(2) *Nonexpendable personal property with a unit acquisition cost of $1,000 or more.*—The recipient may retain the property for other uses provided that compensation is made to the original Federal sponsoring agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the recipient has no need for the property and the property has further use value, the recipient shall request disposition instructions from the original sponsoring agency. The Federal sponsoring agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported to the General Services Administration by the Federal agency to determine whether a requirement for the property exists in other Federal agencies. The Federal sponsoring agency shall issue instructions to the recipient no later than 120 days after the recipient's request and the following procedures shall govern:

(a) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the property and reimburse the Federal sponsoring agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is greater, for the recipient's selling and handling expenses.

(b) If the recipient is instructed to ship the property elsewhere, the recipient shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the recipient's participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(c) If the recipient is instructed to otherwise dispose of the property, the recipient shall be reimbursed by the Federal sponsoring agency for such costs incurred in its disposition.

d. *Property management standards for nonexpendable property.*—The recipient's property management standards for nonexpendable personal property shall include the following procedural requirements:

(1) Property records shall be maintained accurately and shall include:

(a) A description of the property.

(b) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(c) Source of the property, including grant or other agreement number.

(d) Whether title vests in the recipient or the Federal Government.

(e) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(f) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

(g) Location, use and condition of the property and the date the information was reported.

(h) Unit acquisition cost.

(i) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal sponsoring agency for its share.

(2) Property owned by the Federal Government must be marked to indicate Federal ownership.

(3) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the recipient shall promptly notify the Federal sponsoring agency.

(5) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(6) Where the recipient is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

7. *Expendable personal property.*—Title to expendable personal property shall vest in the recipient upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or completion of the grant or other agreement, and the property is not needed for any other federally sponsored project or program, the recipient shall retain the property for use on nonfederally sponsored activities, or sell it, but must in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

8. *Intangible property.*

a. *Inventions and patents.*—If any program produces patentable items, patent rights, processes, or inventions, in the course of work sponsored by the Federal Government, such fact shall be promptly and fully reported to the Federal sponsoring agency. Unless there is a prior agreement between the recipient and the Federal sponsoring agency on disposition of such items, the Federal sponsoring agency shall determine whether protection on the invention or discovery shall be sought. The Federal sponsoring agency will also determine how the rights in the invention or discovery—including rights under any patent issued thereon—shall be allocated and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and statement of Government Patent Policy as printed in 36 FR 16889).

b. *Copyrights.*—Except as otherwise provided in the terms and conditions of the agreement, the author or the recipient organization is free to copyright any books, publications, or other copyrightable materials developed in the course of or under a Federal agreement, but the Federal sponsoring agency shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

[42 FR 6814, Feb. 4, 1977]

CHAPTER 115—ENVIRONMENTAL PROTECTION AGENCY

Part		Page
115-1	Introduction	362

PART 115-1—INTRODUCTION

Subpart 115-1.1—Regulation System

Sec.
115-1.100 Scope of subpart.
115-1.103 Temporary-type FPMR.
115-1.103-50 Temporary-type changes t EPPMR.
115-1.104 Publication of FPMR.
115-1.104-50 Publication of EPPMR.
115-1.106 Applicability of FPMR.
115-1.108 Agency implementation and supplementation of FPMR.
115-1.109 Numbering in FPMR system.
115-1.110 Deviations.

AUTHORITY: Sec. 205(c), 63 Stat. 377, as amended; 40 U.S.C. 486(c).

SOURCE: 36 FR 8568, May 8, 1971, unless otherwise noted.

Subpart 115-1.1—Regulation System

§ 115-1.100 Scope of subpart.

This subpart establishes the Environmental Protection Agency Property Management Regulations (EPPMR), chapter 115 of the Federal Property Management Regulations System (FPMR) (41 CFR Chapter 101); states its relationship to the FPMR, and provides instructions governing the property management policies and procedures of the Environmental Protection Agency (EPA).

§ 115-1.103 Temporary-type FPMR.

§ 115-1.103-50 Temporary-type changes to EPPMR.

Where required, temporary changes will be published as EPPMR-Temporary Regulations. Temporary Regulations will be cross-referenced to related EPPMR Subparts and will indicate dates for compliance with, and cancellation of each issuance.

§ 115-1.104 Publication of FPMR.

§ 115-1.104-50 Publication of EPPMR.

(a) Material published in the EPPMR will generally not be of interest to nor directly affect the public. Therefore, most EPPMR material will not be published in the FEDERAL REGISTER.

(b) Arrows printed in the margin of a page indicate material changed, deleted, or added by the EPPMR Transmittal Notice cited at the bottom of that page. (See GSA, FPMR Amendment Transmittal pages for illustrations.)

§ 115-1.106 Applicability of FPMR.

The FPMR apply to all EPA activities unless otherwise specified, or unless a deviation is approved.

§ 115-1.108 Agency implementation and supplementation of FPMR.

(a) EPPMR implements and supplements the FPMR and follows the FPMR in style, arrangement and numbering sequence. Except to assure continuity and understanding FPMR material will not be repeated or paraphrased in the EPPMR.

(b) Implementing material expands upon related material in the FPMR. Supplementing material deals with subject material not covered in the FPMR.

§ 115-1.109 Numbering in FPMR system.

(a) The numbering system used in EPPMR conforms to that of the FPMR except for the Chapter number. The first three digits represent the Chapter number assigned to this Agency in Title 41, Code of Federal Regulations (CFR). In FPMR the Chapter number is 101 and in EPPMR the Chapter number is 115.

(b) Where EPA Chapter 115 implements Chapter 101 the material will be numbered and captioned to correspond to the FPMR part, subpart, section or subsection, e.g., 115-1.106 "Applicability of FPMR" implements 101-1.106 of FPMR.

(c) Where Chapter 115 supplements the FPMR and deals with subject matter not contained in the FPMR, the EPPMR material is numbered to follow that which is most closely related to similar material in the FPMR, Supplementing material is numbered "50" or higher.

§ 115-1.110 Deviations.

Where deemed necessary that regulations set forth in the FPMR or EPPMR be changed in the interest of program effectiveness, a proposed revision will be submitted in accordance with FPR § 1-1.009, to the Division of Data and Support Systems (DSSD) for review and consideration.

CHAPTER 128—DEPARTMENT OF JUSTICE

Part		Page
128-1	Introduction	364
128-18	Acquisition of Real Property	368
128-48	Utilization, donation, or disposal of abandoned and forfeited personal property	389
128-50	Seized personal property	391

PART 128-1—INTRODUCTION

Subpart 128-1.1—Regulation System

Sec.
128-1.100 Scope of subpart.
128-1.101 Justice Property Management Regulations.
128-1.105 Authority for JPMR.
128-1.152 Citation.

Subpart 128-1.50—Authorities and Responsibilities for Personal Property Management

128-1.5001 Scope of subpart.
128-1.5002 Definitions.
128-1.5002-1 Acquire.
128-1.5002-2 Department.
128-1.5002-3 Head of the Agency/Department.
128-1.5002-4 Bureau.
128-1.5002-5 Personal property.
128-1.5002-6 Personal property management.
128-1.5002-7 Property management officer (PMO).
128-1.5002-8 Property custodian (PC).
128-1.5002-9 Supply support system.
128-1.5003 Primary authority and responsibility.
128-1.5004 Basis for delegations of authority and assignment of responsibilities.
128-1.5005 Delegations of authority.
128-1.5005-1 Primary delegations.
128-1.5005-2 Redelegations of authority.
128-1.5006 General responsibilities.
128-1.5006-1 Head of bureau.
128-1.5006-2 Property management officer (PMO).
128-1.5006-3 Department employees.
128-1.5007-Reproduction of departmental and bureau seals.

AUTHORITY: 5 U.S.C. 301, 40 U.S.C. 486(c), 41 CFR 101-1.108, and 28 CFR 0.75(i).

SOURCE: 41 FR 45987, Oct. 19, 1976, unless otherwise noted.

Subpart 128-1.1—Regulation System

§ 128-1.100 Scope of subpart.

This subpart introduces the Department of Justice Property Management Regulations (JPMR) as part of the Federal Property Management Regulations System (FPMR) (41 CFR Part 101); states its relationship to the FPMR; and provides instructions for the issuance and use of these property management policies and procedures of the Department of Justice.

§ 128-1.101 Justice Property Management Regulations.

The JPMR, established in this subpart, implement and supplement, as necessary, the FPMR provisions governing the acquisition, utilization, management, and disposal of real and personal property. The JPMR are issued to establish uniform property management policies, regulations, and, as necessary, procedures in the Department of Justice.

§ 128-1.105 Authority for JPMR.

The Department of Justice Property Management Regulations are prescribed by the Assistant Attorney General for Administration under authority of 5 U.S.C. 301, 40 U.S.C. 486(c), 41 CFR 101-1.108, and 28 CFR 0.75(j).

§ 128-1.152 Citation.

The JPMR will be cited in accordance with the FEDERAL REGISTER standards applicable to the FPMR. Accordingly, when this section is referred to formally in official documents, it should be cited as "41 CFR 128-1.152." When a section of the JPMR is referred to informally, however, it may be identified simply by "JPMR" followed by the complete paragraph reference number, e.g., "JPMR 128-1.152."

Subpart 128-1.50—Authorities and Responsibilities for Personal Property Management

§ 128-1.5001 Scope of subpart.

This subpart sets forth general definitions of terms used throughout the JPMR and states responsibilities and authorities within the Department of Justice as they pertain to personal property management functions.

§ 128-1.5002 Definitions.

§ 128-1.5002-1 Acquire.

To procure, purchase, or obtain in any manner, except by lease, including transfer, donation or forfeiture, manufacture, or production at Government-owned plants or facilities.

§ 128-1.5002-2 Department.

The Department of Justice, including all its Bureaus and their respective field operations in all locations.

§ 128-1.5002-3 Head of the Agency/Department.

The Attorney General of the United States.

§ 128-1.5002-4 Bureau.

The Federal Bureau of Investigation; the Law Enforcement Assistance Administration; the Immigration and Naturalization Service; the Drug Enforcement Administration; the Bureau of Prisons; the Federal Prison Industries, Incorporated; and the Operations Support Staff (OSS) of the Office of Management and Finance. The OSS has authority and is responsible for all personal property management functions for the Offices, Boards, and Divisions of the Department, the United States Marshals Service, and the United States Parole Commission.

§ 128-1.5002-5 Personal property.

Property of any kind or interest therein, except real and related property (as defined in FPMR 41 CFR 101-43.104-15), records of the Federal Government, and naval vessels, cruisers, aircraft-carriers, destroyers, and submarines (FPMR 41 CFR 101-43.104-13). For management and accounting control, personal property is categorized as follows:

(a) "Expendable personal property" is that which, by its nature or function, is consumed in use; is used as repair parts or components of an end product considered nonexpendable; or has an expected service life of less than one year.

(b) "Non-expendable personal property" is that which is complete within itself, does not lose its identity or become a component part of another article when put into use, and is of a durable nature with an expected service life one or more years.

(c) "Controlled personal property" is that personal property for which good management practice dictates that it would be in the interest of the Government to assign and record accountability to assure the proper use, maintenance, protection and disposal of property for which the Government is responsible. Includes, but is not restricted to property which:

(1) Is leased by, in the custody of, or is loaned to or from the Department.

(2) Due to inherent attractiveness and/or portability is subject to a high probability of theft or misuse.

(3) Is warranted, requires knowledge of age and/or previous repair data when determining whether repair or replacement is appropriate.

§ 128-1.5002-6 Personal property management.

A system for controlling the acquisition, receipt, storage issue, utilization, maintenance, protection, accountability, and disposal of personal property to best satisfy the program needs of the Department.

§ 128-1.5002-7 Property management officer (PMO).

An individual responsible for the overall administration, coordination, and control of the personal property management program of a bureau. The designation as PMO may or may not correspond to the individual's official job title.

§ 128-1.5002-8 Property custodian (PC).

An individual responsible for the immediate physical custody of all personal property under his control and for providing documentation as required on all actions affecting the personal property within his jurisdiction. The designation as PC may or may not correspond to the individual's official job title.

§ 128-1.5002-9 Supply support system.

The sum of all actions taken in providing buildings, equipment, supplies, and services to support program areas.

§ 128-1.5003 Primary authority and responsibility.

(a) The Attorney General of the United States has the primary authority and responsibility for providing direction, leadership, and general supervision in the development and administration of an effective and efficient supply support system for the Department, to include:

(1) The establishment of Department-wide policies, directions, regulations, and procedures satisfying the requirements of law, regulations, and sound management practice; and

(2) The review, evaluation, and improvement of personal property management programs, functions, operations, and procedures throughout the Department.

(b) Pursuant to 28 CFR 0.75 and subject to the general supervision of the Attorney General and the direction of the Deputy Attorney General, the functions described above are assigned to the Assistant Attorney General for Administration as delegations of authority.

§ 128-1.5004 Basis for delegations of authority and assignment of responsibilities.

Certain personal property management functions can be performed by an individual only under a specific grant of authority to that individual. Other functions may be performed simply on the basis of general instructions or directions or by virtue of an individual occupying the position to which the responsibility for the function is assigned. In either situation, to eliminate excessive delay and to reduce unnecessary involvement of multiple management levels, it is considered generally desirable to place authority and responsibility for and to exercise property management actions at the lowest organizational unit practical. Accordingly, specific redelegations of the authority vested in the Assistant Attorney General for Administration are made to the heads of bureaus for the personal property management functions listed in § 128-1.5005 below. The authority to prescribe and issue Department-wide policies, regulations, and procedures for personal property management is not redelegated and remains solely within the jurisdiction of the Assistant Attorney General for Administration.

§ 128-1.5005 Delegations of authority.

§ 128-1.5005-1 Primary delegations.

The following authorities are redelegated to the heads of bureaus for use within their respective jurisdictions and shall be exercised in accordance with the policies and procedures established by the Assistant Attorney General for Administration.

(a) Designating the PMO, for the bureau, within the following limitations:

(1) Only one PMO is to be designated for the bureau, at the bureau level. Neither the title designation nor the responsibilities of the PMO are to be delegated below that level.

(2) One or more PC's also may be designated for the bureau, depending upon the size and complexity of the organizational structure. Each PC is responsible solely for that property within his respective jurisdiction. The number and distribution of PC's designated is entirely at the option of the head of the bureau.

(3) There is no restriction on designating a single individual as PMO and PC providing that the functions and responsibilities are compatible and are within the capabilities of a single person.

(b) Authorizing exceptions to the FPMR use and replacement standards for office machines, furniture, furnishings and typewriters specified in §§ 101-25.3 and 101-25.4.

(c) Authorizing exceptions to FPMR replacement standards for materials handling equipment specified in § 101-25.304.

(d) Authorizing the procurement of passenger motor vehicles with additional systems or equipment or the procurement of additional systems or equipment for passenger motor vehicles already owned or operated by the Government, in conformance with Federal Standards No. 122 and § 101-25.304.

(e) Authorizing the retention for official use by the bureau of abandoned or other unclaimed personal property and of personal property which is voluntarily abandoned or forfeited other than by court decree.

(f) Determining when personal property becomes excess and reporting the excess property to the General Services Administration (GSA).

(g) Assigning or transferring excess personal property within the bureau to other bureaus of the Department, other Federal agencies, the Legislative Branch to the Judicial Branch, to wholly-owned or mixed-ownership Government corporations, to cost-reimbursable type contractors, or to authorized grantees.

(h) Transferring property forfeited to the Government to other authorized recipients or requesting judicial transfer of such property from others to the bureau.

(i) Determining fair market value of abandoned and other unclaimed property retained for official use by the bureau, for deposit to a special fund for reimbursement of owners.

(j) Approving claims and reimbursing, less direct costs, former owners of abandoned or other unclaimed personal property which has been sold or retained for official use.

(k) Recommending non-Federal grantee excess property screeners to GSA as required in FPMR 101-43.320(h).

(l) When authorized by statutory authority, vesting title to Government-furnished personal property in contractors or grantees.

(m) Acquiring excess personal property from other bureaus and from other Federal agencies.

§ 128-1.5005-2 Redelegations of authority.

(a) The authorities delegated by the Assistant Attorney General for Administration to heads of bureaus may, in turn, be redelegated as necessary to enable personal property management functions to be performed at the organizational level best equipped to handle such functions, unless otherwise prohibited by this regulation.

(b) Such redelegations can be made without the specific approval of the Assistant Attorney General for Administration to deputies, principal administrative officers, heads of field offices and installations and their respective deputies. Such redelegations shall not conflict with the duties or responsibilities assigned to the PMO, or PC under the JPMR.

(c) Existing delegations of authority by the Assistant Attorney General for Administration in matters of personal property management which are not covered in this section shall continue in effect until modified or revoked.

(d) Redelegations of authorities made in accordance with this section shall be in writing and shall be made available for audits, surveys, or as otherwise appropriate.

§ 128-1.5006 General responsibilities.

§ 128-1.5006-1 Head of bureau.

The head of a bureau is responsible for establishing and administering a property management program within his respective operation which will provide for:

(a) The planning and scheduling of property requirements to assure that supplies, equipment, and space are readily available to satisfy program needs while minimizing operating costs and inventory levels.

(b) The creation and maintenance of complete, accurate inventory control and accountability record systems.

(c) The maximum utilization of available property for official purposes.

(d) The proper care and securing of property, to include storage, handling, preservation, and preventative maintenance.

(e) The identification of property excess to the needs of the bureau which must be made available to other Departmental activities and reported to GSA for transfer, donation, or disposal, as appropriate, under the provisions of the FPMR and JPMR.

(f) The submission of required property management reports.

(g) The conducting of periodic management reviews within the activity to assure compliance with prescribed policies, regulations, and procedures and to determine additional guidance or training needs.

(h) Advising all bureau employees of their responsibilities for Government property.

(i) Supporting general ledger control accounts for personal property by establishing subsidiary accounts and records as prescribed by the bureau in accordance with the provisions of DOJ Order 2110.1, Paragraph 4(b)(c).

§ 128-1.5006-2 Property management officer (PMO).

The property management officer of a bureau is responsible for coordinating and conducting the activities of the personal property management program and for performing the following functions:

(a) Providing the required leadership, guidance, and operating procedures for personal property management functions.

(b) Ensuring general ledger control accounts for personal property are supported by property records in accordance with DOJ Order 2110.1, Paragraph 6.103b(4).

(c) Ensuring bureau compliance with the personal property management requirements of the FPMR and JPMR.

(d) Designating items of controlled personal property within the bureau.

(e) Ensuring records of controlled personal property are created and maintained by personnel other than property custodians.

§ 128-1.5006-3 Department employees.

Each employee of the Department who has use of, supervises the use of, or has control over Government property is responsible for that property. This responsibility may take either or both of the following forms:

(a) Supervisory responsibility, in which an officer-in-charge, and administrative officer, or a supervisor is obligated to establish and enforce necessary administrative and security measures to ensure proper preservation and use of all Government property under his jurisdiction.

(b) Personal responsibility, in which each employee of the Department is obligated to properly care for, handle, use, and protect Government property issued to or assigned for the employee's use at or away from the office or station.

§ 128-1.5007 Reproduction of departmental and bureau seals.

(a) Requests for permission to reproduce the Departmental seal for commercial, educational, ornamental or other purposes by other government agencies or private entities shall be referred to the Assistant Attorney General for Administration for decision.

(b) Requests for permission to reproduce the seals of the Federal Bureau of Investigation, the Bureau of Prisons, the Federal Prison Industries, the Immigration and Naturalization Service, the Board of Parole, the Drug Enforcement Administration, and the United States Marshals Service for such purposes by other government agencies or private entities shall be referred to the head of the respective Departmental organization for decision.

(c) The decision whether to grant such a request shall be made on a case-by-case basis, with consideration of any relevant factors, which may include the benefit or cost to the government of granting the request; the unintended appearance of endorsement or authentication by the Department; the potential for misuse; the effect upon Departmental security; the reputability of the use; the extent of control by the Department over the ultimate use; and the extent of control by the Department over distribution of any products or publications bearing a Departmental seal.

[45 FR 55727, Aug. 21, 1980]

PART 128-18—ACQUISITION OF REAL PROPERTY

Subpart 128-18.50—Uniform Relocation Assistance and Real Property Acquisition Policies

Sec.

128-18.5001 General provisions.
128-18.5001-1 Purpose.
128-18.5001-2 Definitions.
128-18.5001-3 Time limit on applying for benefits.
128-18.5001-4 Public Information.
128-18.5002 Assurances of adequate replacement housing prior to displacement.
128-18.5002-10 Scope of section.
128-18.5002-11 Determination.
128-18.5002-12 Support.
128-18.5002-13 Waiver.
128-18.5002-14 Decent, safe and sanitary housing.
128-18.5002-15 Absence or inadequacy of local standards.

Sec.
128-18.5002-16 Housing provided as a last resort.
128-18.5002-17 Loans for planning and preliminary expenses.
128-18.5003 Moving and related expenses.
128-18.5003-20 Eligibility.
128-18.5003-21 Actual reasonable expenses in moving.
128-18.5003-22 Nonallowable moving expenses and losses.
128-18.5003-23 Expenses in searching for replacement business or farm.
128-18.5003-24 Actual direct losses by business or farm operation.
128-18.5004 Payments in lieu of moving and related expenses.
128-18.5004-30 Scope of section.
128-18.5004-31 Dwellings—schedules.
128-18.5004-32 Business.
128-18.5004-33 Farms.
128-18.5004-34 Non-profit organizations.
128-18.5004-35 Net earnings.
128-18.5004-36 Amount of business fixed payment.
128-18.5005 Replacement housing payments for homeowners.
128-18.5005-40 Scope of section.
128-18.5005-41 Eligibility.
128-18.5005-42 Comparable replacement dwelling.
128-18.5005-43 Computation of replacement housing payments.
128-18.5005-44 Mortgage insurance.
128-18.5006 Replacement housing payment for tenants and certain others.
128-18.5006-50 Scope of section.
128-18.5006-51 Eligibility.
128-18.5006-52 Computation of replacement housing payment for displaced tenants.
128-18.5006-53 Computation of replacement housing payments for certain others.
128-18.5007 Relocation assistance advisory services.
128-18.5007-60 Relocation assistance advisory program.
128-18.5007-61 Coordination of planned relocation activities.
128-18.5007-62 Contracting for relocation services.
128-18.5007-63 General contracts.
128-18.5008 Federally assisted programs.
128-18.5008-70 Assurances.
128-18.5008-71 Administration of relocation assistance programs.
128-18.5009 Annual report.
128-18.5009-80 Preparation.
128-18.5009-81 Waiver of assurance of replacement housing.
128-18.5009-82 Submission to General Services Administration.
128-18.5009-83 Maintenance of racial and ethnic data.

Sec.
128-18.5010 Uniform real property acquisition policy.
128-18.5010-90 Scope of section.
128-18.5010-91 Acquisition procedures.
128-18.5010-92 Appraisal standards.
128-18.5010-93 Notice to move.
128-18.5010-94 Federally assisted programs.
128-18.5010-95 Exclusion of payments for relocation costs and related items.
128-18.5011 Administrative review.
128-18.5011-111 Scope of section.
128-18.5011-112 Review of procedure.

APPENDIX I—FORMAT FOR COMPUTATION OF INTEREST PAYMENT
APPENDIX II—U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FIELD OFFICE JURISDICTIONS

AUTHORITY: Sec. 213, 84 Stat. 1894, 1900 (42 U.S.C. 4633); 28 CFR 0.75(j).

SOURCE: 42 FR 21474, Apr. 27, 1977, unless otherwise noted.

Subpart 128-18.50—Uniform Relocation Assistance and Real Property Acquisition Policies

§ 128-18.5001 General provisions.

§ 128-18.5001-1 Purpose.

(a) The purpose of these regulations is to revise the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (42 U.S.C. 4601 et seq.), to ensure fair and equitable treatment of persons displaced by Federal and federally assisted programs and to safeguard against abuse of any of the underlying purposes, provisions, and policies of the Act.

(b) These regulations apply with respect to the acquisition of all real property for, and the relocation of all persons displaced, by Federal programs and projects undertaken by only those State agencies which receive Federal financial assistance for all or part of the cost.

§ 128-18.5001-2 Definitions.

(a) "Act" as used in this part means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(b) "Bureau" means any of the following organizational units of the Department:

(1) Bureau of Prisons.

(2) Law Enforcement Assistance Administration.

(3) Immigration and Naturalization Service.

(c) "Bureau head" means the head of any bureau listed in paragraph (b) of this section, or his designee.

(d) "Initiation of negotiations" means the date the bureau makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase real property.

(e) "Dwelling" means the place of permanent or customary and usual abode of a person. It includes a single family building; a one-family unit in a multi-family building; a unit of a condominium, or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under state law, or cannot be moved without substantial damage or unreasonable cost. The term "dwelling" does not include seasonal or part-time dwelling units, such as beach houses, mountain or other vacation cabins.

(f) "State agency" means the National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or a political subdivision of a State or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

(g) "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any annual payment or capital loan to the District of Columbia.

(h) "Person" means any individual, partnership, corporation, or association.

(i) "Displaced person" means a person who moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by any bureau of the Department of Justice or with Federal financial assistance; and solely for the purposes of sections 202(a) and (b) and 205 of the Act, as a result of the acquisition of or as a result of the written order of the acquiring bureau to vacate other real property, on which such person conducts a business or farm operation, for such program or project. In order to qualify as a displaced person, a person must have moved as a result of the receipt of a written notice to vacate, or the subject real property must in fact have been acquired and the person must have moved as a result of its acquisition (except in those instances covered by sections 217 and 219 of the Act).

(j) "Business" means any lawful activity, excepting a farm operation, conducted primarily:

(1) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) For the sale of services to the public;

(3) Solely for the purpose of section 202(a) of the Act for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(k) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(l) "Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(m) A "bona fide mortgage" is one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations.

(n) "Owner" means a person who holds fee title, a life estate, a 99-year lease, or has an interest in a cooperative housing project which includes the right of occupancy or a dwelling unit, or is the contract purchaser of any such estates or interests, or who is possessed of such other proprietary interest in the property acquired, as in the judgment of the head of the Bureau, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interests by device, bequest inheritance or operation of law, the tenure of ownership, not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

(o) "Financial means": For the purpose of determining financial means of families and individuals in accordance with section 205(c)(3) of the Act, a financial means test (ability to pay) must be made to satisfy the requirement set forth in § 128-18.5005-40. In order to meet a financial means test a determination should be made as to the displaced person's ability to afford the replacement dwelling. In making this determination the average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes and other reasonable recurring related expenses) which the displaced person will be required to pay, in general, should not exceed 25 percent of the monthly gross income or the present ratio of housing payment to the income of the displaced family or individual, including supplemental payments made by public agencies.

(p) "Displacing agency" means a bureau in the case of a direct Federal project or a State agency in the case of a project receiving Federal financial assistance.

(q) "Family" means two or more individuals who are related by blood, adoption, marriage or legal guardianship who live together as a family unit, or upon determination by the head of the bureau, other persons who live together as a family unit.

§ 128-18.5001-3 Time limit on applying for benefits.

Applications for benefits under the Act must be made within 18 months from the date on which the displaced person moves from the real property acquired or to be acquired, or the date on which the bureau or State agency makes final payment of all costs of that real property, whichever is later. The bureau head may extend this period upon a proper showing of good cause.

§ 128-18.5001-4 Public information.

The head of each bureau shall make available to the public full information concerning the bureau's relocation programs and shall insure that persons to be displaced are fully informed, at the earliest possible time, of such matters as available relocation payments and assistance, the specific plans and procedures for assuring that suitable replacement housing will be available for homeowners and tenants in advance of displacement, the eligibility requirements and procedures for obtaining such payments and assistance, and the right of administrative review by the head of the Bureau.

§ 128-18.5002 Assurances of adequate replacement housing prior to displacement.

§ 128-18.5002-10 Scope of section.

The provisions set forth in this subsection are to guide bureaus and State agencies in implementing section 205(c)(3) and 206(b) of the Act.

§ 128-18.5002-11 Determination.

Bureaus may not proceed with any phase of a project or authorize a State agency to proceed with any phase of a project which will cause the displacement of any person until it has determined, or received satisfactory assurances from the State agency that, within a reasonable period of time prior to displacement, there will be available on a basis consistent with the requirements of Title VIII of the Civil Rights Act of 1968, in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as described in § 128-18.5002-14, equal in number to the number of, and available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment.

§ 128-18.5002-12 Support.

The determination or assurances under § 128-18.5002-11 shall be based on a current survey and analysis of available replacement housing by the displacing agency. Surveys to determine availability of replacement housing shall be undertaken during the planning phase for each area wherein provisions of the Act may be applicable. Such surveys and analysis must take into account the competing demands on available housing. These surveys shall include sufficient data to provide assurances that replacement dwellings are available and meet requirements of the Act and criteria described herein. These surveys shall list housing currently available. Information needed to develop and maintain the survey may be secured from the Veterans Administration, Federal Housing Administration, Department of Housing and Urban Development, and Real Estate Associations.

§ 128-18.5002-13 Waiver.

In accordance with section 205(c)(3) of the Act, the bureau head may waive the assurances required under § 128-18.5002-11, but only on the basis of emergency or other extraordinary situations where immediate possession of real property is of crucial importance. Each waiver of assurance of replacement housing shall be supported by appropriate findings and a determination of the necessity for the waiver. Determinations so made shall be included in the annual report required by § 128-18.5009-80.

§ 128-18.5002-14 Decent, safe, and sanitary housing.

A decent, safe, and sanitary dwelling is one which is found to be in sound, clean and weather-tight condition, and which meets local housing codes. The bureau head shall determine if a dwelling unit is decent, safe, and sanitary, based on the following criteria. Adjustments may only be made in the cases of unusual circumstances or unique geographical areas.

(a) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink, cooking stove, or connections for same, a separate complete bathroom, hot and cold running water in both the bathroom and the kitchen, and adequate and safe wiring system for lighting and other electrical services, and heating as required by climatic conditions and local codes.

(b) *Non-housekeeping unit.* A non-housekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. If local codes do not include requirements relating to space and sanitary facilities, standards shall be subject to the approval of the head of the bureau causing the displacement.

(c) *Occupancy standards.* Occupancy standards for replacement housing shall comply with bureau approved occupancy requirements or shall comply with local codes.

§ 128-18.5002-15 Absence or inadequacy of local standards.

In those instances where there is no local housing code or a local housing code does not contain certain minimum standards or the standards are inadequate, the bureau head shall establish the standards.

§ 128-18.5002-16 Housing provided as a last resort.

When it is determined that adequate replacement housing is not available and cannot otherwise be made available, the head of the bureau may take action or approve action by a State agency to develop replacement housing. Bureaus taking or approving such action for replacement housing will be guided by the criteria and procedures issued by the Secretary of Housing and Urban Development (24 CFR Part 43, Subpart A) in accordance with the provision concerning section 206(a) of the Act in the President's memorandum of January 4, 1971. A State agency taking such action shall comply with the requirements and procedures of the bureau which provides the Federal financial assistance.

§ 128-18.5002-17 Loans for planning and preliminary expenses.

Federal agencies will be guided by the criteria and procedures developed by the Secretary of Housing and Development (24 CFR Part 43, Subpart B) when providing loans to eligible borrowers for planning and other preliminary expenses authorized under section 215. A State agency providing such loans shall comply with the requirements and procedures of the bureau which provides the Federal financial assistance in accordance with the President's memorandum of January 4, 1971.

§ 128-18.5003 Moving and related expenses.

§ 128-18.5003-20 Eligibility.

(a) Any displaced person (including one who conducts a business or farm operation), is eligible to receive payment for moving expenses. A person who lives on his own business or farm property may be eligible for both moving and related expenses as a dwelling occupant in addition to being eligible for payments with respect to displacement.

(b) Any person who moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property in whole or part, or as a result of a written notice of the acquiring bureau or State agency to vacate real property, or solely for the purpose of section 202(a) and (b) of the Act, as a result of the acquisition of, or a written notice of the acquiring bureau or State agency to vacate, other real property on which such person conducts a farm or business, is eligible to receive a payment for moving expenses.

§ 128-18.5003-21 Actual reasonable expenses in moving.

(a) *Allowable expenses.* (1) Transportation of individuals, families, and personal property from the acquired site, to the replacement site, not to exceed a distance of 50 miles, except where the bureau head determines that relocation beyond the 50 mile area is justified.

(2) Packing, unpacking, crating, and uncrating of personal property.

(3) Advertising for packing, crating and transportation when the bureau head determines that it is necessary.

(4) Storage of personal property for a period generally not to exceed 12 months when the bureau head determines that storage is necessary in connection with relocation.

(5) Insurance premiums covering loss and damage of personal property while in storage or transit.

(6) Removal and reinstallation, and reestablishment, including such modifications as deemed necessary by the bureau head, and reconnection of utilities for, machinery, equipment, appliances, and other items, not acquired as real property. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personal and that the displacing bureau is released from any payment for the property.

(7) Property lost, stolen, or damaged, (not caused by the fault or neglect of the displaced person, his agent or employees) in the process of moving, where insurance to cover such loss or damage is not available.

(8) Such other reasonable expenses as determined to be allowable by the bureau head.

(b) *Limitations.* (1) When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially, unless the bureau head determines a greater amount is justified.

(2) When an item of personal property which is used in connection with any business or farm operation is not moved but sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost, minus the proceeds received from the sale, or the estimated cost of moving, whichever is less.

(3) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the judgment of the bureau head, the allowable reimbursement for the expense of moving the personal property shall

not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the case of moving junk yards, stockpiled sand, gravel, minerals, metals, and similar type items of personal property.

(4) If the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to or in excess of the in-place value of the display, consideration should be given to acquiring such display or displays as a part of the real property, unless such acquisition is prohibited by State law.

§ 128-18.5003-22 Nonallowable moving expenses and losses.

(a) Additional expenses incurred because of living in a new location.

(b) Cost of moving structures, or other improvements in which the displaced person reserved ownership, except as otherwise provided by law.

(c) Improvements to the replacement site, except when required by law.

(d) Interest on loans to cover moving expenses.

(e) Loss of goodwill.

(f) Loss of profits.

(g) Loss of trained employees.

(h) Personal injury.

(i) Cost of preparing the application for moving and related expenses.

(j) Payment for search cost in connection with locating a replacement dwelling.

(k) Such other items as the bureau head determines should be excluded.

§ 128-18.5003-23 Expenses in searching for replacement business or farm.

(a) To be allowed: (1) Actual travel costs.

(2) Extra costs for meals and lodging.

(3) Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed $10.00 per hour.

(4) In the discretion of the bureau head, necessary broker, real estate or other professional fees to locate a replacement business or farm operation.

(b) *Limitation.* The total amount which a displaced person may be paid for searching expenses may not exceed $500, unless the bureau head determines that a greater amount is justified based on the circumstances involved.

§ 128-18.5003-24 Actual direct losses by business or farm operation.

When the displaced person does not move personal property, he shall be required to make a bona fide effort to sell it, and should be reimbursed for the reasonable costs incurred.

(a) When the business or farm operation is discontinued, the displaced person is entitled to the difference between the fair market value of the personal property for continued use at its location prior to displacement and the sale proceeds, or the estimated cost of moving 50 miles, whichever is less.

(b) When the personal property is abandoned, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement, or the estimated cost of moving 50 miles, whichever is less.

(c) The cost of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

§ 128-18.5004 Payments in lieu of moving and related expenses.

§ 128-18.5004-30 Scope of section.

The provisions set forth in this subsection are to guide bureaus in implementing section 202 (b) and (c) of the Act.

§ 128-18.5004-31 Dwellings—schedules.

(a) Section 202(b) provides that at the option of the displaced person, he may receive a moving expense allowance not to exceed $300, based on schedules established by the bureau head, and a dislocation allowance of $200. Moving allowance schedules maintained by the respective State highway departments shall be the basis for the bureau's schedule. These schedules shall provide for adequacy of reimbursement in every locality.

(b) Where there are no highway department schedules, the head of the bureau undertaking or providing Federal financial assistance to a project causing displacement in such areas shall cooperate in the development of a single moving expense schedule for the use of all displacing agencies.

(c) A displaced person who elects to receive a payment based on a schedule shall be paid under the schedule used in the jurisdiction in which displacement occurs regardless of where he relocates.

§ 128-18.5004-32 Business.

(a) *Eligibility.* A person displaced from his business as defined in section 101(7)(A), (B), and (C) of the Act, is eligible under section 202(c) of the Act to receive a fixed payment in lieu of moving and related expenses. Care must be exercised in each instance, however, to assure that such payments are made only in connection with a bona fide business, as defined in § 128-18.5001-2(j).

(b) A payment in lieu of actual reasonable moving expenses may be made under section 202(c) to the displaced owner of a business only if the local agency determines that, during the two taxable years prior to displacement, or during such other period as the head of the Federal agency determines to be more equitable, the business:

(1) Had average annual gross receipts of at least $2,000 in value; or

(2) Had average annual net earnings of at least $1,000 in value; or

(3) Contributed at least 33⅓ percent of the average gross annual income of the owner(s), including income from all sources, such as welfare.

If the application of the above criteria obviously creates an inequity in a given case, the head of the bureau may approve the use of other criteria as determined appropriate.

(c) Those businesses described in section 101(7)(d) of the Act are not eligible under section 202(c) for a payment in lieu of moving and related expenses.

(d) Where a displaced person is displaced from his place of business, no payment shall be made under section 202(c) of the Act until the head of the displacing bureau determines that the business is not part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business, and that the business cannot be relocated without a substantial loss of existing patronage. The determination of loss of existing patronage shall be made by the displacing bureau only after consideration of all pertinent circumstances, including but not limited to, the following factors:

(1) The type of business conducted by the displaced concern; or

(2) The nature of the clientele of the displaced concern; or

(3) The relative importance of the present and proposed location to the displaced business and the availability of a suitable replacement location for the displaced person.

§ 128-18.5004-33 Farms.

Where a displaced person is displaced from only a part of his farm operation the fixed payment provided by section 202(c) of the Act shall be made only if the displacing bureau determines that the farm met the definition of a farm operation prior to the acquisition and that the property remaining after the acquisition can no longer meet the definition of a farm operation.

(a) *Eligibility.* A payment in lieu of actual reasonable moving expenses may be made to the displaced owner of a farm operation according to the criteria established for displaced owners of businesses (See § 128-18.5004-32(b)). Such a payment may be made to the displaced operator of a farm operation only if the acquiring agency determines that the farm operator has discontinued his entire farm operation at the present location or has relocated the entire farm operation.

(b) *Partial taking.* In the case of a partial taking, the operator will be considered to have been displaced from a farm operation if:

(1) The part taken met the definition of a farm operation prior to the taking; or

(2) The taking caused the operator to be displaced from the farm operation on the remaining land; or

(3) The taking caused such a substantial change in the nature of the existing farm operation as to constitute a displacement.

If the use of the above criteria obviously creates an inequity in a given case, the head of the bureau may approve the use of other criteria as determined appropriate.

§ 128-18.5004-34 Nonprofit organizations.

Where a nonprofit organization is displaced, no payment shall be made under section 202(c) of the Act until after the head of the bureau determines:

(a) That the nonprofit organization cannot be relocated without a substantial loss of its existing patronage. The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community, or clientele served or affected by the activities of the nonprofit organization.

(b) That the nonprofit organization is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

§ 128-18.5004-35 Net earnings.

The term "average annual net earnings" as used in section 202(c) of the Act means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for a project, or during such other period as the head of the displacing bureau determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. If a business or farm operation has no net earnings, or has suffered losses during the period used to compute "average annual net earnings," it may nevertheless receive the $2,500 minimum payment authorized by section 202(c) of the Act.

§ 128-18.5004-36 Amount of business fixed payment.

The fixed payment to a person displaced from a farm operation or from his place of business, including nonprofit organizations, shall be in an amount equal to the average annual net earnings of the business or farm operation except that such payment shall not be less than $2,500 nor more than $10,000.

§ 128-18.5005 Replacement housing payments for homeowners.

§ 128-18.5005-40 Scope of section.

The provisions set forth in this subsection are to guide bureaus in implementing section 203(a) of the Act.

§ 128-18.5005-41 Eligibility.

(a) A displaced owner-occupant is eligible for a replacement housing payment authorized by section 203(a) of the Act, not to exceed $15,000, if he meets both of the following requirements:

(1) Actually owned and occupied the acquired dwelling from which displaced for not less than 180 days prior to the initiation of negotiations for the property, or owned and occupied the property, covered or qualified under section 217 of the Act for not less than 180 days prior to displacement.

(2) Purchases and occupies a replacement dwelling, which is decent, safe, and sanitary, not later than the end of the 1-year period beginning on the date on which he receives from the displacing bureau the final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(b) A displaced owner-occupant of a dwelling who is determined to be ineligible under this subsection may be eligible for a replacement housing payment under § 128-18.5006 of these regulations.

§ 128-18.5005-42 Comparable replacement dwelling.

For the purposes of rendering relocation assistance by making referrals for replacement housing and for computation of the replacement housing payment, a comparable replacement dwelling is one which is decent, safe, and sanitary and is:

(a) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing.

(b) Adequate in size to meet the needs of the displaced family or individual. However, at the option of the displaced person, a replacement dwelling may exceed his needs when the replacement dwelling has the same number of rooms or the equivalent square footage as the dwelling from which he was displaced.

(c) Open to all persons regardless of race, color, religion, sex, or national origin, consistent with the requirement of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968.

(d) Located in an area not generally less desirable than the one in which the acquired dwelling is located, with respect to:

(1) Neighborhood conditions, including but not limited to municipal services and other environmental factors;

(2) Public utilities; and

(3) Public and commercial facilities.

(e) Reasonably accessible to the displaced person's place of employment or potential place of employment.

(f) Within the financial means of the displaced family or individual.

(g) Available on the market to the displaced person.

If housing meeting the requirements of this section is not available on the market, the bureau head may, upon a proper finding of the need therefor, consider available housing exceeding these basic criteria.

§ 128-18.5005-43 Computation of replacement housing payment.

The replacement housing payment of not more than $15,000 comprises the following:

(a) *Differential payment for replacement housing.* The bureau head may determine the amount which, if any, when added to the acquisition cost of the dwelling acquired by the displacing bureau, is necessary to purchase a comparable replacement dwelling by either establishing a schedule or by using a comparative method. The relocatee is bound to the method selected for use by the displacing bureau.

(1) *Schedule method.* The bureau head may establish a schedule of reasonable acquisition costs for comparable replacement dwellings of the various types of dwellings to be acquired and available on the private market. The schedule shall be based on a current market analysis sufficient to support determinations of the amount for each type of dwelling to be acquired. When more than one Federal agency is causing displacement in a community or an area, the head of the bureau concerned shall coordinate the establishment of the schedule for replacement housing payments with such other agencies.

(2) *Comparative method.* Bureaus may determine the price of a comparable replacement dwelling by selecting a dwelling or dwellings that are most representative of the dwelling unit acquired, are available to the displaced person, and meet the definition of a comparable replacement dwelling. A single dwelling shall be used when additional comparable dwellings are not available.

(3) *Alternate method.* The bureau head may develop criteria for computing replacement housing payments when neither the schedule nor the comparative method is feasible. An alternate method proposed by a State agency is subject to prior concurrence of the bureau head.

(4) *Limitations.* The amount established as the differential payment for the replacement housing sets the upper limit of this payment.

(i) If the displaced person voluntarily urchases and occupies a decent, safe, and sanitary dwelling at a price less than the above, the comparable replacement housing payment shall be reduced to that amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(ii) If the displaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment shall be made.

(b) *Interest payment.* The bureau head shall determine the amount, if any, necessary to compensate a displaced person for any increased interest cost, including amounts paid by the purchaser. Such amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage, i.e., one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations. The following shall be considered in computing the interest payment:

(1) The payment shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the bona fide mortgage on the acquired dwelling, at a time of acquisition over the remaining term of the mortgage on the acquired dwelling, reduced to discounted present value.

(2) The discount rate shall be the prevailing interest rate paid on savings deposits by the commercial banks in the general area in which the replacement dwelling is located.

(3) All bona fide mortgages on the dwelling acquired by the displacing agency will be used to compute the increased interest cost portion of the replacement housing payment.

(4) The computation of the payment for increased interest costs will be based on the actual term of the new mortgage or the remaining term of the old mortgage, whichever is the lesser, and the computation will be based on the actual amount of the new mortgage or the amount of the old mortgage, whichever is the lesser.

(i) Seller's points are not to be included in the interest computation.

(ii) The actual interest rate of the new mortgage will be used in the computation.

(iii) Purchaser's points and/or loan origination fees will be added to the computed interest payment.

(5) However, the interest payment shall be based on the present value of the reasonable cost of the interest differential, including points paid by the purchaser, on the amount of the unpaid debt on the acquired dwelling for its remaining term.

(6) See Appendix I, Format for Computation of Interest Payment.

(c) *Incidental expenses.* (1) The bureau head shall determine the amount, if any, necessary to reimburse a displaced person for actual costs incurred by him incident to the purchase of the replacement dwelling (but not including prepaid expenses) such as:

(i) Legal, closing, and related costs including title search, preparation of conveyance instruments, notary fees, surveys, preparation of plats, and charges incident to recordation;

(ii) Lenders', FHA, or VA, appraisal fees;

(iii) FHA application fee;

(iv) Certification of structural soundness when required by lender, FHA, or VA;

(v) Credit report;

(vi) Title policies or abstracts of title;

(vii) Escrow agent's fee; and

(viii) State revenue stamps or sale or transfer taxes.

(2) No fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title 1, Pub. L. 90-321, and Regulation "Z" (12 CFR Part 226) issued pursuant thereto by the Board of Governors of the Federal Reserve System.

(d) *Case going through condemnation.* No property owner should be deprived of the earliest possible payment of the replacement housing amounts to which he is rightfully due. The following procedure shall be used on cases involving condemnation:

(1) An advance replacement housing payment can be computed and paid to a property owner if the determination of the acquisition price will be delayed pending the outcome of condemnation proceedings. The agency may make a provisional replacement housing payment to the displaced homeowner based on the agency's maximum offer for the property, providing the homeowner enters into an agreement with the agency that:

(i) Upon final determination of the condemnation proceedings, the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the actual price paid or the amount determined necessary to acquire a comparable, decent, safe, and sanitary dwelling; and

(ii) If the amount awarded in the condemnation proceedings as the fair market value of the property acquired plus the amount of the recomputed replacement housing payment exceeds the price paid for, or the acquiring agency's determined cost of a comparable dwelling, he will refund to the acquiring agency, an amount equal to the amount of the excess. However, in no event shall he be required to refund more than the amount of the replacement housing payment advanced.

(2) If the property owner does not agree to such adjustment, the replacement housing payment shall be deferred until the case is finally adjudicated and computed on the basis of the final determination, using the award as the acquisition price.

§ 128-18.5005-44 Mortgage insurance.

The head of any Federal agency administering Federal mortgage insurance programs may, upon application by a mortgagee, insure any mortgage (including advances during construction) on a comparable replacement dwelling executed by a displaced person assisted under this section, if the mortgage is eligible for insurance under any Federal law administered by the agency notwithstanding any requirements under the law relating to age, physical condition, or other personal characteristics of eligible mortgagors and may make commitments for the insurance of the mortgage prior to the date of execution of the mortgage.

§ 128-18.5006 Replacement housing payments for tenants and certain others.

§ 128-18.5006-50 Scope of section.

The provisions set forth in this subsection are to guide bureaus in implementing section 204 of the Act.

§ 128-18.5006-51 Eligibility.

(a) A displaced tenant or owner-occupant of a dwelling for less than 180 days is eligible for a replacement housing payment not to exceed $4,000, as authorized by section 204 of the Act, if he meets both of the following requirements.

(1) Actually occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of the property or actually occupied the property covered or qualified under section 217 of the Act for not less than 90 days prior to displacement. Tenants and other persons occupying the property shall be advised when negotiations for the property are initiated with the owner thereof.

(2) Is not eligible to receive a payment under section 203 of the Act.

(b) An owner-occupant of a dwelling for not less than 180 days prior to the initiation of negotiations is eligible for a replacement housing payment as a tenant, as authorized by section 204 of the Act when he rents a decent, safe, and sanitary replacement dwelling not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency final payment for all costs for the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

§ 128-18.5006-52 Computation of replacement housing payment for displaced tenants.

A displaced tenant is eligible for a rental replacement housing payment; or, if he purchases replacement housing within 1 year from displacement, he is eligible for a downpayment including expenses incidental to closing not to exceed $4,000.

(a) *Rental replacement housing payment.* The bureau head shall determine the amount necessary to rent a comparable replacement dwelling by either establishing a schedule or by using a comparative method.

(1) *Schedule method.* A rental schedule may be established for renting comparable replacement dwellings as described in § 128-18.5005-42 and which are available on the private market for the various types of dwellings to be acquired. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years (the average monthly cost from the

schedule) and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations if such rent was reasonable. The bureau head may prescribe circumstances which may dictate the use of economic rather than actual rent paid by the displaced tenant. For purposes of the regulations in this part, "economic rent" is defined as the amount of rent the displaced tenant would have had to pay for a comparable dwelling unit in an area similar to the neighborhood in which the dwelling unit to be acquired is located. The schedule shall be based on a current analysis of the market to determine an amount for each type of dwelling required. When more than one Federal agency is causing the displacement in a community or an area the bureau shall cooperate with the respective agencies in choosing the method for computing the replacement housing payment and shall use uniform schedules of average rental housing in the community or area.

(2) *Comparative method.* The average month's rent may be determined by selecting one or more dwellings most representative of the dwelling unit acquired, which is available to the displaced person and meets the definition of a comparable replacement dwelling as described in § 128-18.5005-42. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations, if such rent was reasonable. The bureau head may prescribe circumstances which may dictate the use of economic rather than actual rent paid by the displaced tenant.

(3) *Exceptions.* The bureau head may establish the average month's rent paid by the displaced person by using more than 3 months, if he deems it advisable. If rent is being paid to the displacing agency, economic rent shall be paid in determining the amount of the payment to which the displaced tenant is entitled.

(4) *Alternate to paragraph (a) (1) and (2) of this section.* When neither method is feasible, the head of the bureau shall develop criteria for computing the payment.

(5) *Limitation.* The amount of the rental replacement housing payment shall be computed by subtracting the economic rent of the acquired dwelling from the lesser of:

(i) The amount of rent actually paid for the replacement dwelling; or

(ii) The amount determined by the displacing agency as necessary to rent a comparable replacement dwelling.

(6) *Disbursement of rental replacement housing payment.* The head of the Federal agency shall develop procedures to implement section 204 to provide, within the $4,000 and four-year limitations of that section, a rental replacement housing payment that will enable the displacee to rent comparable, decent, safe, and sanitary housing. The amount of the rental payment under section 204 (1) shall be determined and paid in a lump sum, except it shall be paid in installments if the displaced person so requests.

(b) *Purchases—replacement housing payment.* If the tenant elects to purchase instead of renting, the payment shall be computed by determining the amount necessary to enable him to make a down payment and to cover incidental expenses on the purchase of replacement housing, as follows:

(1) The amount of the down payment shall be the lesser of:

(i) The amount that would be required as a down payment for financing a conventional loan on a comparable dwelling; or

(ii) The amount required as a downpayment for financing a conventional loan on the replacement dwelling actually purchased. The amount determined shall be added to the amount required to be paid by the purchaser as points and/or origination or loan services fee if such fees are normal to real estate transactions in the area on the comparable dwelling or the replacement dwelling, whichever is the lesser.

(2) Incidental expenses of closing the transaction are those as described in § 128-18.5005-43(c).

(3) The maximum payment may not exceed $4,000 except that if more than $2,000 is required, the tenant must match any amount in excess of $2,000 by an equal amount in making the downpayment.

(4) The full amount of the replacement housing payment must be applied to the purchase price and incidental costs shown on the closing statement.

§ 128-18.5006-53 Computation of replacement housing payments for certain others.

(a) A displaced owner-occupant who does not qualify for a replacement housing payment under subsection E of this section because of the 180-day occupancy requirements and who elects to rent is eligible for a rental replacement housing payment not to exceed $4,000. The payment shall be computed in the same manner as shown in § 128-18.5006-52(a) except that the present rental rate for the acquired dwelling shall be economic rent as determined by market data.

(b) A displaced owner-occupant who does not qualify for a replacement housing payment under subsection E of this section because of the 180-day occupancy requirement and elects to purchase a replacement dwelling is eligible for a replacement housing downpayment and closing costs not to exceed $4,000. The payment shall be computed in the same manner as shown in § 128-18.5006-52(b).

§ 128-18.5007 Relocation assistance advisory services.

§ 128-18.5007-60 Relocation assistance advisory program.

(a) The bureau shall provide a relocation assistance advisory program including such measures, facilities, or services as may be necessary or appropriate to perform all of the tasks detailed in section 205(c) of the Act for persons displaced as a result of a program or project undertaken by the bureau.

(b) If the bureau head determines that any person occupying property immediately adjacent to the real property acquired, is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under section 205(c) of the Act.

(c) The State agency shall provide the advisory program when bureau assisted projects are involved.

§ 128-18.5007-61 Coordination of planned relocation activities.

(a) *Federal coordination.* When two or more Federal agencies contemplate displacement activities in a given community or area, the heads of the respective bureaus responsible for the planned activities shall require that appropriate channels of communication be established between the agencies for the purpose of planning relocation activities and coordinating available housing resources. The bureau involved shall consult with the appropriate Housing and Urban Development Regional/Area Office within the jurisdictional area concerning the availability of housing. Appendix 2, HUD Field Office Jurisdictions, is a directory of regional offices, which will be maintained on a current basis by the Department of Housing and Urban Development. Subsequent updated directories will be furnished to bureaus upon request. The bureaus causing the displacement shall designate at least one representative who will meet periodically with the representatives of other agencies to review the impact of their respective programs on the community or area.

(b) *Local coordination.* To further insure maximum coordination of relocation activities in a given community or area, each Federal agency's regulations shall require that the displacing bureau consult appropriate local officials before approving any proposed project in the community, consistent with the requirements of the procedures promulgated by the Office of Management and Budget Circular A-95 (Revised). That circular provides a central point for identifying local officials.

§ 128-18.5007-62 Contracting for relocation services.

(a) *Contracting with central relocation agency.* The head of a bureau contemplating the initiation of displacement activities shall consider contracting with the central relocation agency in a community or area for carrying out its relocation activities and shall require specific performance standards for these services. The appropriate Housing and Urban Development Regional/Area Office shall provide information and assistance, on request from other Federal agencies, concerning these services.

(b) *Contracting with others.* When a centralized agency relocation agency is not available in the community or area, or if in the judgment of the bureau head the centralized agency does not have the capacity to provide the necessary services, within the time required by the bureau's program, the bureau head may contract with another public agency or a private contractor who can provide the necessary relocation services.

§ 128-18.5007-63 General contacts.

(a) *Veterans Administration (VA).* The Veterans Administration maintains a housing counseling service and a displaced persons priority program for providing VA-owned housing to displaced persons. These services may be made available to persons displaced by Federal and federally assisted programs and the local VA Loan Guarantee Office should be contacted.

(b) *Small Business Administration.* The Small Business Administration provides technical and loan counseling services for small businesses. A displaced businessman should be advised of these services.

(c) *Department of Agriculture.* The Department of Agriculture provides many services through its direct action farmer assistance programs, activities in rural nonfarm communities, and also urban communities of under 10,000 population. Coordination with the Farmer's Home Administration, Department of Agriculture, is recommended when a farm operation is displaced.

(d) *Local governmental organizations.* Local governmental organizations and agencies may have rent supplement, public housing, or related relocation assistance programs which may be utilized to provide housing for the occupants displaced from a project. Local programs should be utilized where they exist. Local nongovernmental associations may also be used in helping a displaced person. Local real estate boards, apartment owners associations, home builders associations, and other organizations may provide information and services that will help obtain comparable replacement housing for displaced persons and suitable replacement sites for displaced businesses. Also, many States have veterans' organizations which offer services to veterans. The availability of such State organizations should be ascertained and used.

§ 128-18.5008 Federally assisted programs.

§ 128-18.5008-70 Assurances.

(a) *Information.* The State agency shall provide the bureau with a statement assuring the bureau that the affected persons will be adequately informed of the benefits, policies, and procedures described in this part.

(b) *Inability to provide assurances.* The bureau shall not approve or authorize any action by a State agency which will result in the displacement of any person or the acquisition of any real property except in accordance with the following requirements:

(1) A State agency has provided satisfactory assurances as required by sections 210 and 305; or

(2) A State agency's assurances are accompanied by a statement in which it identifies any of the assurances required by section 305 which it is unable to provide, in whole or in part, under its laws. The statement should be supported by an opinion of the chief legal officer of the State agency or other appropriate legal officer. Federal agencies administering federally assisted programs may adopt procedures setting forth the conditions under which projects will be approved when State agencies cannot fully comply with section 305. In all cases there must be full compliance with all assurances required by section 210.

(c) *Compliance with sections 301 and 302.* A State agency, as part of the assurances required by section 305, shall provide a statement indicating the extent to which it can comply with the provisions of sections 301 and 302.

If the State agency indicates that it is unable to comply fully with any of these policies, its statement shall be supported by an opinion of the chief legal officer of the State agency or other appropriate legal officer. State agencies should comply with sections 301 and 302 if, under State law, compliance is legally possible.

(d) *Monitoring assurances.* Bureau heads shall take continuing action to insure that State agencies are acting in accordance with the assurances they have provided.

§ 128-18.5008-71 Administration of relocation assistance programs.

(a) *Approval.* A State agency electing to contract for services pursuant to section 212 shall enter into a written contract consistent with the regulations of the bureau administering the project or program causing the displacement. The bureau head shall take affirmative action to assure that the contract is so administered as to provide uniform and effective relocation for all displaced persons, consistent with these regulations.

(b) *Contract for services by State agencies.* Contracts shall include, as a minimum, the following provisions:

(1) That payments and assistance shall be provided in accordance with these regulations as implemented by bureau procedures;

(2) That records required by bureau regulations shall be retained for a period of at least 3 years and shall be available for inspection by representatives of the bureau involved and the General Accounting Office;

(3) Clauses required by regulations implementing Title VI of the Civil Rights Act of 1964 (Pub. L. 88-353); and

(4) Any other provision approved by the bureau head administering the federally assisted program or project.

§ 128-18.5009 Annual report.

§ 128-18.5009-80 Preparation.

Each bureau shall prepare and submit an annual report on a fiscal year basis to the Assistant Attorney General for Administration on its activities with respect to the programs and policies established or authorized by the Act. This report shall consist of narrative comments and supporting statistical data and such information as may be required by the Assistant Attorney General for Administration. Bureaus shall furnish data separately for each Federal program and each federally assisted program, and a summary for the whole bureau. The data shall be provided by completing GSA Form 2997, Annual Report on Relocation and Real Property Acquisition Activities. Bureaus may obtain their initial supply of GSA Form 2997, "Annual Report on Relocation and Real Property Acquisition Activities," from General Services Administration (3FNDD), Union and Franklin Streets Annex, Building 11, Alexandria, Virginia 22314. Field offices should submit all future requirements to their Washington headquarters office.

§ 128-18.5009-81 Waiver of assurance of replacement housing.

The narrative portion of the report shall describe any situations or circumstances which required a waiver of assurance of replacement housing pursuant to subsection 205(c)(3) of the Act. For any waivers reported, submit the bureau's findings and the determination supporting waiver of the requirements of the subsection.

§ 128-18.5009-82 Submission to General Services Administration.

Each bureau shall submit seven copies of its annual report to the Assistant Attorney General for Administration by December 15 of each year in order to enable the Department to submit its complete report to the Administrator of the General Services Administration not later than December 30, of each year.

§ 128-18.5009-83 Maintenance of racial and ethnic data.

The elimination of the requirement to report racial and ethnic data in no way relieves the bureaus or their grantees of responsibility for maintaining racial and ethnic data on relocatees to the extent required by Title VI of the Civil Rights Act of 1964, other applicable Federal law, and Executive Order 11512. Form DJ-245, Table 1, Part III, may be used for this purpose.

§ 128-18.5010 Uniform real property acquisition policy.

§ 128-18.5010-90 Scope of section.

The provisions set forth in this subsection are to guide bureaus and State agencies in implementing Title III of the Act.

§ 128-18.5010-91 Acquisition procedures.

(a) *Just compensation.* Before initiation of negotiations for the acquisition of real property, the bureau head, or the head of the State agency with the concurrence of the bureau head, shall establish an amount which he believes to be just compensation therefor. In no event shall such amount be less than the bureau's approved appraisal of the fair market value of the property.

(b) *Initiation of negotiations.* (1) *Statement to be furnished to the owner.* When negotiations for the acquisition of real property are initiated, the owner shall be provided with a written statement concerning the proposed acquisition. This statement shall include, as a minimum, the following:

(i) Identification of the real property and the estate or interest therein to be acquired, including the buildings, structures, and other improvements on the land as well as the fixtures considered to be a part of the real property; and

(ii) The amount of the estimated just compensation for the property to be acquired, as determined by the acquiring bureau or agency, and a statement of the basis therefor. In the case of a partial taking, damages, if any, to the remaining real property shall be separately stated.

(2) *Offer to purchase.* The bureau head shall make a prompt offer to purchase the property for the amount contained in the statement.

§ 128-18.5010-92 Appraisal standards.

For the purpose of promoting uniformity under section 301(3) of the Act, the head of each State agency acquiring real property shall, with the concurrence of the bureau head establish standards for appraisals used in real property acquisition, criteria for determining the qualifications of appraisers, and a system of review by qualified appraisers consistent with the current issue of the Uniform Appraisal Standards for Federal Land Acquisition published by the Interagency Land Acquisition Conference.

§ 128-18.5010-93 Notice to move.

Section 301(5) provides that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling or to move his business or farm operation without at least 90 days written notice from the head of the displacing agency of the date by which such move is required. This subsection applies only in those instances where actual displacement of persons, businesses, or farm operations occur.

§ 128-18.5010-94 Federally assisted programs.

The bureau head shall require that State agencies reimburse owners for necessary expenses as specified in sections 303 and 304 of the Act. The bureau head shall also require that all State agencies comply with the provisions of sections 301 and 302 of the Act if compliance is legally possible under State law.

§ 128-18.5010-95 Exclusion of payments for relocation costs and related items.

For real property acquisitions under Federal Law, contracts or options to purchase real property shall not incorporate provisions for making payments for relocation costs and related items in Title II of the Act. Appraisers shall not give consideration to or include in their real property appraisals any allowances for the benefits provided by Title II. In the event of condemnation with a declaration of taking, the estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under Title II of the Act.

§ 128-18.5011 Administrative review.

§ 128-18.5011-111 Scope of section.

The provisions set forth in this subsection are to guide bureaus and State agencies in providing administrative review of decisions made with the respect to duties and responsibilities established under the Act.

§ 128-18.5011-112 Review procedure.

(a) Any person aggrieved by determination as to eligibility for a payment authorized by the Act, or the amount of a payment, may apply in writing for review by the bureau head, in the case of a direct Federal program or project. The bureau head shall:

(1) Give prompt consideration of all requests for administrative review; and

(2) Give prompt written notice to the claimant of any determination made in connection with his application for review, and include a full explanation concerning any amount claimed which has been disallowed; and

(3) Provide for prompt payment of any amounts which are determined to be due the claimant.

(b) In the case of a State program or project receiving Federal financial assistance, the bureau head shall require the State agency to provide for administrative review by the head of the State agency, which review shall be subject to the same requirements as set forth in paragraph (a) of this section.

APPENDIX I—FORMAT FOR COMPUTATION OF INTEREST PAYMENT

REQUIRED INFORMATION

1. Outstanding balance of mortgage on acquired dwelling .... $..........
2. Outstanding balance of mortgage on replacement dwelling .... $..........
3. Lesser of Line 1 or Line 2 .... $..........
4. Number of months remaining until last payment is due for mortgage on acquired dwelling ....
5. Number of months remaining until last payment is due for mortgage on replacement dwelling ....
6. Lesser of Line 4 or Line 5 ....
7. Annual interest rate of mortgage on acquired dwelling .... ——%
8. Annual interest rate of mortgage on replacement dwelling (or, if it is lower, the prevailing annual interest rate currently charged by mortgage lending institutions in the general area in which the replacement dwelling is located) .... ——%
9. Prevailing annual interest rate paid on standard passbook savings accounts by commercial banks .... ——%
10. If applicable, any debt service costs on the loan on the replacement dwelling, such as points paid by the purchaser which are not reimbursable as an incidental expense .... $..........

DEVELOPMENT OF MONTHLY PAYMENT FIGURES

A. Monthly payment required to amortize a loan of $—— (Line 3) in —— (Line 6) months at an annual interest rate of —— (Line 7) percent .... $..........

B. Monthly payment required to amortize a loan of $—— (Line 3) in —— (Line 6) months at an annual interest rate of —— (Line 8) percent .... $..........

C. Monthly payment required to amortize a loan of $—— (Line 3) in —— (Line 6) months at an annual interest rate of —— (Line 9) percent .... $..........

CALCULATION OF INTEREST PAYMENT

Step 1 Subtract A from B:
  Monthly payment based on rate for replacement dwelling (B) .... $..........
  Monthly payment based on rate for acquired dwelling (A) .... − ....
  Result (difference) .... $..........

Step 2 Divide result (difference) of Step 1 by C (carry to 6 decimal places):
  Result (difference) from Step 1 .... $..........
  Monthly payment based on savings rate (C) .... ÷ ....
  Result (quotient) .... $..........

Step 3 Multiply outstanding balance of mortgage on acquired dwelling by result (Quotient) of Step 2:
  Outstanding Balance (from Line 3) .... $..........
  Result (quotient) of Step 2 .... × ....
  Result (product) .... $..........

Step 4 Add to result (product) of Step 3 any debt service costs on the loan on the replacement dwelling:
  Result (product) of Step 3, first mortgage .... $..........
  Result (product) of Step 3, second mortgage [1] .... $..........
  Sum of difference, as applicable [1] .... $..........
  Add debt service costs on loan on replacement dwelling (Line 10) .... $..........
  Amount of interest payment .... $..........

---

[1] If there is more than one outstanding mortgage on an acquired dwelling, the discounted value of each mortgage must be determined. To do this, a separate computation is made to each mortgage through Step 3. A consolidated Step 4 is then completed.

[40 FR 21858, May 19, 1975]

APPENDIX II—U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FIELD OFFICE JURISDICTIONS

OCTOBER 15, 1973.

REGION I

Regional Administrator, James J. Barry, Rm. 800, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Tel. (617) 223-4066.

Area Offices:

Connecticut, Hartford 06105; 999 Asylum Avenue, Tel. (203) 244-3638, Area Director, Lawrence L. Thompson.

Massachusetts, Boston 02114; Bulfinch Building, 15 New Chardon Street, Tel. (617) 223-4111, Area Director, M. Daniel Richardson, Jr.

New Hampshire, Manchester 03101; Davison Building, 1230 Elm Street, Tel. (603) 669-7681, Area Director, Creeley S. Buchanan.

Insuring Offices:

Maine, Bangor 04401; Federal Building and Post Office, 202 Harlow Street, Post Office Box 1357, FTS Tel. (207) 942-8271, Commercial Number 942-8271, Director, Wayne M. Johnson.

Rhode Island, Providence 02903; 330 Post Office Annex, Tel. (401) 528-4351, Director, Charles J. McCabe.

Vermont, Burlington 05401; Federal Building, Elmwood Avenue, Post Office Box 989, FTS Tel. (802) 862-6274, Commercial Number 862-6501, Director, Leslie E. Snow.

REGION II

Regional Administrator, S. William Green, 26 Federal Plaza, Room 3541, New York, New York 10007. Tel. (212) 264-8068.

Area Offices:

New Jersey, Camden 08103; The Parkade Building, 519 Federal Street, FTS Tel. (609) 963-2301, Commercial Number 963-2541, Area Director, Philip G. Sedler.

New Jersey, Newark 07102; Gateway 1 Building, Raymond Plaza, Tel. (201) 645-3010, Area Director, James P. Sweeney.

New York, Buffalo 14202; Grant Building, 560 Main Street, Tel. (716) 842-3510, Area Director, Frank D. Cerabone.

New York, New York 10007; 120 Church Street, Tel. (212) 264-2870, Area Director, Joseph D. Monticciolo (Acting).

Commonwealth Area Office:

Puerto Rico, San Juan 00936; 255 Ponce de Leon Avenue, Hato Rey, Puerto Rico, Mailing Address, G Post Office Box 3869, San Juan, Puerto Rico, FTS Tel. (Dial 202-967-1221, ask operator for 622-0201, from Washington, D.C., dial Code 106, ask operator for 622-0201), Commercial No. 809-765-0404, Area Administrator, Joe E. Febros Silve (Acting).

Insuring Offices:

New York, Albany 12206; Westgate North, 30 Russell Road, Tel. (518) 472-3567, Director, Robert J. Wolf (Acting).

New York, Hempstead 11650; 175 Fulton Avenue, Tel. (516) 485-5000, Director, Michael Leon (Acting).

REGION III

Regional Administrator, Theodore R. Robb, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Tel. (215) 597-2560.

Area offices:

District of Columbia, Washington 20009; Universal North Building, 1875 Connecticut Ave. N.W., Tel. (202) 382-4855, Area Director, Harry W. Staller (Acting).

Maryland, Baltimore 21201; Two Hopkins Plaza, Mercantile Bank and Trust Building, Tel. (301) 962-2121, Area Director, Allen T. Clapp.

Pennsylvania, Philadelphia 19106; Curtis Building, 625 Walnut Street, Tel. (215) 597-2665, Area Director, Joseph A. LaSala (Acting).

Pennsylvania, Pittsburgh 15212; Two Allegheny Center, Tel. (412) 644-2802, Area Director, Charles J. Lieberth.

Virginia, Richmond 23219; 701 East Franklin Street, Tel. (804) 782-2721, Area Director, Carroll A. Mason.

Insuring Offices:

Delaware, Wilmington 19801; Farmers Bank Building, 14th Floor, 919 Market Street, FTS Tel. (302) 571-6330, Director, Henry McC. Winchester, Jr.

West Virginia, Charleston 25330; New Federal Building, 500 Quarrier Street, Post Office Box 2948, FTS Tel. (304) 343-1321, Commercial No. 343-6181, Director, H. William Rogers.

Special Recovery Office:

Scranton, Pennsylvania 18503; Lackawanna County Building, Spruce and Adams Avenue, Tel. 717-344-7393, Director, James D. Corbin.

REGION IV

Regional Administrator, E. Lamar Seals, Peachtree Seventh Building, 50 Seventh Street, N.E., Atlanta, Georgia 30323, Tel. (404) 526-5585.

Area Offices:

- Alabama, Birmingham 35233; Daniel Building, 15 South 20th Street, Tel. (205) 325-3264, Area Director, Jon Will Pitts.
- Florida, Jacksonville 32204; Peninsular Plaza, 661 Riverside Avenue, Tel. (904) 791-2626, Area Director, Forrest W. Harrell.
- Georgia, Atlanta 30303; Peachtree Center Building, 230 Peachtree Street, N.W., Tel. (404) 526-4576, Area Director, William A. Hartman, Jr. (Acting).
- Kentucky, Louisville 40201; Children's Hospital Foundation Bldg., 601 South Floyd Street, Post Office Box 1044, Tel. (502) 582-5251, Area Director, Virgil G. Kinnaird.
- Mississippi, Jackson 39213; 101-C Third Floor, Jackson Mall, 300 Woodrow Wilson Avenue, W., FTS Tel. (601) 948-2267, Commercial No. 366-2634, Area Director, James S. Roland.
- North Carolina, Greensboro 27408; 2309 West Cone Boulevard, Northwest Plaza, FTS Tel. (919) 275-9361, Commercial No. 275-9111, Area Director, Richard B. Barnwell.
- South Carolina, Columbia 29202; 1801 Main Street, Jefferson Square, Tel. (803) 765-5591, Area Director, Clifton G. Brown.
- Tennessee, Knoxville 37919; One Northshore Building, 1111 Northshore Drive, FTS Tel. (615) 524-4561, Commercial No. 584-8527, Area Director, Carroll G. Oakes.

Insuring Offices:

- Florida, Coral Gables 33134; 3001 Ponce de Leon Boulevard, FTS Tel. (305) 350-6221, Commercial No. 445-2561, Director, Louis T. Baine (Acting).
- Florida, Tampa 33609; 4224 28 Henderson Boulevard, Post Office Box 18165, Tel. (813) 228-2501, Director, K. Wayne Swiger.
- Tennessee, Memphis 38103; 28th Floor, 100 North Main Street, Tel. (901) 534-3141, Director, Glynn G. Raby, Jr. (Acting).
- Tennessee, Nashville 37203; 1717 West End Building, Tel. (615) 749-5521, Director, George N. Gregson.

Region V

Regional Administrator, George J. Vavoulis, 300 South Wacker Drive, Chicago, Illinois 60606, Tel. (312) 353-5680.

Area Offices:

- Illinois, Chicago 60602; 17 North Dearborn Street, Tel. (312) 353-7660, Area Director, John L. Waner.
- Indiana, Indianapolis 46205; Willowbrook 5 Building, 4720 Kingsway Drive, Tel. (317) 633-7188, Area Director, Choice Edwards (Acting).
- Michigan, Detroit 48226; 5th Floor, First National Building, 660 Woodward Avenue, Tel. (313) 226-7900, Area Director, John E. Kane (Acting).
- Minnesota, Minneapolis, St. Paul; Griggs Midway Building, 1821 University Avenue, St. Paul, Minnesota 55104, Tel. (612) 725-4701, Area Director, Thomas T. Feeney.
- Ohio, Columbus 43215; 60 East Main Street, Tel. (614) 469-7345, Area Director, Elmer C. Binford (Acting).
- Wisconsin, Milwaukee 53203; 744 North 4th Street, Tel. (414) 224-3223, Area Director, Richard A. Kaiser (Acting).

Insuring offices:

- Illinois, Springfield 62704; Lincoln Tower Plaza, 524 South Second Street, Room 600, Tel. (217) 525-4414, Director, Boyd O. Barton.
- Michigan, Grand Rapids 49505; Northbrook Building Number II, 2922 Fuller Avenue, N.E., Tel. (616) 456-2225, Director, Alfred Raven.
- Ohio, Cincinnati 45202; Federal Office Building, 550 Main Street, Room 9009, Tel. (513) 684-2884, Director, Charles Collins, II (Acting).
- Ohio, Cleveland 44199; Federal Building, 1240 East 9th Street, Tel. (216) 522-4065, Director, Charles P. Lucas.

Region VI

Regional Administrator, Richard L. Morgan, Room 14B35, New Dallas Federal Building, 1100 Commerce Street, Dallas, Texas 75202, Tel. (214) 749-7401.

Area offices:

- Arkansas, Little Rock 72201; Room 1490, Union National Plaza, Tel. (501) 378-5401, Area Director, Thomas E. Barber.
- Louisiana, New Orleans 70113; Plaza Tower, 1001 Howard Avenue, Tel. (504) 527-2063, Area Director, Thomas J. Armstrong.
- Oklahoma, Oklahoma City 73102; 301 North Hudson Street, FTS Tel. (405) 231-4801, Commercial Number: 231-4181, Area Director, Robert H. Breeden.
- Texas, Dallas 75202; 2001 Bryan Tower, 4th Floor, Tel. (214) 749-1601, Area Director, Manuel Sanchez III.
- Texas, San Antonio 78205; Kallison Building, 410 South Main Avenue, Post Office Box 9163, FTS Tel. (512) 225-4685, Commercial Number: 225-5511, Area Director, Finnis E. Jolly.

Insuring offices:

- Louisiana, Shreveport 71101; 514 Ricou-Brewster Building, 425 Milam Street, FTS Tel. (318) 425-6601, Commercial Number: 425-1241, Director, Rudy Langford.

New Mexico, Albuquerque 87110: 625 Truman Street, N.E., Tel. (505) 766-3251, Director, Luther G. Branham.

Oklahoma, Tulsa 74152 1708 Utica Square, Post Office Box 4054, Tel. (918) 581-7435, Director, Robert H. Gardner.

Texas, Fort Worth 76102; 819 Taylor Street, Room 13A01 Federal Building, Tel. (817) 334-3233, Director, Richard M. Hazlewood.

Texas, Houston 77046; Two Greenway Plaza East, Suite 200, Tel. (713) 226-4335, Director, William A. Painter.

Texas, Lubbock 79408; Courthouse and Federal Office Building, 1205 Texas Avenue, Post Office Box 1647, FTS Tel. (806) 747-3265, Commercial Number: 747-3711, Director, Don D. Earney.

REGION VII

Regional Administrator, Elmer E. Smith, Federal Office Building, Room 300, 911 Walnut Street, Kansas City, Missouri 84106, Tel. (816) 374-2661.

Area offices:

Kansas, Kansas City 66101; Two Gateway Center, 4th and State Streets, Tel. (816) 374-4355, Area Director, William R. Southernland.

Missouri, St. Louis 63101; 210 North 12th Street, Tel. (314) 622-4760. Area Director, Elmo O. Turner.

Nebraska, Omaha 68106; Univac Building, 7100 West Center Road, Tel. (402) 221-9301, Area Director, Guy J. Birch.

Insuring offices:

Iowa, Des Moines 50309; 210 Walnut Street, Room 259 Federal Building, Tel. (515) 284-4512, Director, Nate Ruben.

Kansas, Topeka 66603; 700 Kansas Avenue, Tel. (913) 234-8241, Director, Jim Haff (Acting).

REGION VIII

Regional Administrator, Robert C. Rosenheim, Federal Building, 1961 Stout Street, Denver, Colorado 80202, Tel. (303) 837-4881.

Insuring offices:

Colorado, Denver 80202; 4th Floor, Title Building, 909-17th Street, Tel. (303) 837-2441, Director, Joseph G. Wagner.

Montana, Helena 59601; 616 Helena Avenue, Tel. (406) 442-3237, Director, Orvin B. Fjare.

North Dakota, Fargo 58102; Federal Building, 653-2nd Avenue N., Post Office Box 2483, Tel. (701) 237-5136, Director, Duane R. Liffrig.

South Dakota, Sioux Falls 57102; 119 Federal Building U.S. Courthouse, 400 S. Phillips Avenue, FTS Tel. (605) 336-2223, Commercial Number 336-2980, Director, Rodger L. Rosenwald.

Utah, Salt Lake City 84111; 125 South State Street, Post Office Box 11009, Tel. (801) 524-5237, Director, L. C. Romney.

Wyoming, Casper 82601; Federal Office Building, 100 East B Street, Post Office Box 580, FTS Tel. (307) 265-3252, Commercial Number: 265-5650, Director, Marshall F. Elliott (Acting).

REGION IX

Regional Administrator, Robert H. Baida, 450 Golden Gate Avenue, Post Office Box 36003, San Francisco, California 94102, Tel. (415) 556-4752.

Area offices:

California, Los Angeles 90057, 2600 Wilshire Boulevard, Tel. (213) 688-5973, Area Director, Roland E. Camfield (Acting).

California, San Francisco 94111, 1 Embarcadero Center, Suite 1600, Tel. (415) 556-2238, Area Director, James H. Price.

Insuring offices:

Arizona, Phoenix 85002; 244 West Osborn Road, Post Office Box 13468, FTS Tel. (602) 261-4434, Commercial Number: 261-4441, Director, Merritt R. Smith.

California, Sacramento 95809; 801 I Street, Post Office Box 1978, Tel. (916) 449-3471, Director, Richard D. Chamberlain.

California, San Diego 92112; 110 West C Street, Post Office Box 2648, Tel. (714) 593-5310, Director, Albert E. Johnson.

California, Santa Ana 92701; 1440 East First Street, FTS Tel. (213) 836-2451, Commercial Number: (714) 836-2451, Director, Robert L. Simpson.

Hawaii, Honolulu 96813, 1000 Bishop Street, 10th Floor, Post Office Box 3377, FTS Tel. (Dial 415-556-0220 and ask operator for 546-2136), Commercial Number: 546-2136, Director, Alvin K. H. Pang.

Nevada, Reno 89605, 1050 Bible Way, Post Office Box 4700, Tel. (702) 784-5356, Director, Morley W. Griswold.

REGION X

Regional Administrator, Oscar P. Pederson, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101, Tel. (206) 442-5415.

Area offices:

Oregon, Portland 97204; 520 Southwest 6th Avenue, Tel. (503) 221-2558, Area Director, Russell H. Dawson.

Washington, Seattle 98101, Arcade Plaza Building, 1321 Second Avenue, Tel. (206) 442-7456, Area Director, Marshall D. Majors.

Insuring offices:

Alaska, Anchorage 99501; 334 West 5th Avenue, FTS Tel. (Dial 206-442-0150 and ask operator for 265-4790), Commercial Number: (907) 272-5561 Ext. 791, Director, James Tveit (Acting).

Idaho, Boise 83707; 331 Idaho Street, Post Office Box 32, FTS Tel. (208) 342-2232, Commercial Number: 342-2711, Director, Charles L. Holley, Jr.

Washington, Spokane 99201, West 920 Riverside Avenue, Tel. (509) 456-4571, Director, E. Daryl Mabee.

PART 128-48—UTILIZATION, DONATION, OR DISPOSAL OF ABANDONED AND FORFEITED PERSONAL PROPERTY

Sec.
128-48.001 Definitions.
128-48.001-5 Forfeited property.
128-48.001-50 Administrative or summary process.

Subpart 128-48.1—Utilization of Abandoned and Forfeited Personal Property

128-48.102-1 Vesting of title in the United States.
128-48.102-4 Proceeds.
128-48.150 Determination of type of property.

Subpart 128-48.3—Disposal of Abandoned and Forfeited Personal Property

128-48.305-1 Abandoned or other unclaimed property.

Subpart 128-48.50—Proper Claims for Abandoned or Other Unclaimed Personal Property

128-48.500 Scope of subpart.
128-48.501 Definitions.
128-48.501-1 Determining official.
128-48.501-2 Claimant.
128-48.501-3 Owner.
128-48.501-4 Person.
128-48.502 Procedures relating to claims.
128-48.503 General procedures.

Authority: 41 CFR 128-1.105.

Source: 43 FR 3279, Jan. 24, 1978, unless otherwise noted.

§ 128-48.001 Definitions.

§ 128-48.001-5 Forfeited property.

Personal property acquired by a bureau, either by administrative process or by order of a court of competent jurisdiction pursuant to any law of the United States.

§ 128-48.001-50 Administrative or summary process.

Forfeiture is achieved by direction of the seizing bureau in lieu of the courts.

The phrase shall be interpreted to mean by administrative process.

Subpart 128-48.1—Utilization of Abandoned and Forfeited Personal Property

§ 128-48.102-1 Vesting of title in the United States.

(a) Abandoned or other unclaimed property, subject to the provisions of section 203(m) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(m)), shall remain in the custody of and be the responsibility of the bureau finding such property.

(b) If the owner of such property is known, the owner shall be notified within 20 days of finding such property by certified mail at the owner's address of record that the property may be claimed by the owner or his designee and that if the property is not claimed within 30 days from the date the letter of notification is postmarked, the title of the property will vest in the United States.

(c) If the owner of such property is not known and the estimated value of the property exceeds $100, the bureau shall post notice within 20 days of finding such property, which contains the following information:

(1) A description of the property including model or serial numbers, if known.

(2) A statement of the location where the property was found and the office that has custody of it.

(3) A statement that any person desiring to claim the property must file with the bureau within 30 days from the date of first publication a claim for said property.

(4) A complete mailing address is to be provided as a point of contact within the bureau for any person to obtain additional information concerning the property or the procedures involved in filing a claim.

Notice must be published once a week for at least three successive weeks. Sound judgment and discretion must be used in selecting the publication medium. Advertisements should be placed in a publication of general circulation within the judicial district where the property was found.

(d) Property, as described in paragraphs (b) and (c) of this section, shall be held for a period of 30 days from the date of the first publication of notice. Upon the expiration of this 30-day period, title to such property vests in the United States, except that title reverts to the owner where a proper claim is filed within three years from the date of vesting of title in the United States, but if the property has been in official use, transferred for official use, or sold at the time the proper claim is approved, title shall not revert back to the former owner. The former owner shall instead obtain reimbursement in accordance with 41 CFR 101-48.102-4 or 101-48.305-1.

(e) If the owner of such property is unknown and the estimated value of the property is $100 or less, no notice is required, and the property shall be held for a period of 30 days from the date of finding the property. Upon expiration of this 30-day period, title to such property vests in the United States.

§ 128-48.102-4 Proceeds.

(a) Records of abandoned or other unclaimed property will be maintained in such a manner as to permit identification of the property with the original owner, if known, when such property is put into official use or transferred for official use by the finding bureau. Records will be maintained until the three-year period for filing claims has elapsed to enable the bureau to determine the amount of reimbursement due to a former owner who has filed a proper claim for abandoned or other unclaimed property.

(b) Reimbursement for official use by the finding bureau or transfer for official use of abandoned or other unclaimed property that has been placed in a special fund by the bureau for more than three years shall be deposited in the Treasury of the United States as miscellaneous receipts, or in such other bureau accounts as provided by law.

§ 128-48.150 Determination of type of property.

If a bureau is unable to determine whether the personal property in its custody is abandoned or voluntarily abandoned, the bureau shall contact the regional office of the General Services Administration for the region in which the property is located for such a determination.

Subpart 128-48.3—Disposal of Abandoned and Forfeited Personal Property

§ 128-48.305-1 Abandoned or other unclaimed property

Proceeds from the sale of abandoned or other unclaimed property that have been placed in a special fund by a bureau for more than three years shall be deposited in the Treasury of the United States as miscellaneous receipts, or in such other bureau accounts as provided by law.

Subpart 128-48.50—Proper Claims for Abandoned or Other Unclaimed Personal Property

§ 128-48.500 Scope of subpart.

This subpart sets forth the policies in regard to proper claims for abandoned or other unclaimed property.

§ 128-48.501 Definitions.

§ 128-48.501-1 Determining official.

The official who has the authority to grant or deny the claim for the abandoned or other unclaimed property.

§ 128-48.501-2 Claimant.

The person who submitted the claim for the abandoned or other unclaimed property.

§ 128-48.501-3 Owner.

The person who has primary and direct title to property (see 28 CFR 9.2(e)).

§ 128-48.501-4 Person.

An individual, partnership, corporation, joint venture, or other entity capable of owning property (see 28 CFR 9.2(f)).

§ 128-48.502 Procedures relating to claims.

(a) Upon receipt of a claim, an investigation shall be conducted to determine the merits of the claim, and the investigation's report shall be submitted to the determining official.

(b) The determining official shall be designated by the head of a bureau.

(c) Upon receipt of a claim and the report thereon by the determining official, he shall make a ruling based upon the claim and the investigation's report.

(d) Notice of the granting or denial of a claim for abandoned or other unclaimed property shall be mailed to the claimant or his attorney. If the claim is granted, the conditions of relief and the procedures to be followed to obtain the relief shall be set forth. If the claim is denied, the claimant shall be advised of the reason for such denial.

(e) A request for reconsideration of the claim may be submitted within 10 days from the date of the letter denying the claim. Such request shall be addressed to the head of the bureau and shall be based on evidence recently developed or not previously considered.

§ 128-48.503 General procedures.

(a) Claims shall be sworn and shall include the following information in clear and concise terms:

(1) A complete description of the property including serial numbers, if any.

(2) The interest of the claimant in the property, as owner, mortgagee, or otherwise, to be supported by bills of sale, contracts, mortgages, or other satisfactory documentary evidence.

(3) The facts and circumstances, to be established by satisfactory proof, relied upon by the claimant to justify the granting of the claim.

(b) If the claim is filed before title has vested in the United States, the determining official shall not grant the claim for the abandoned or other unclaimed property unless the claimant establishes a valid, good faith interest in the property.

(c) If the claim is filed after title has vested in the United States, the determining official shall not grant the claim for abandoned or other unclaimed property unless the claimant:

(1) Establishes that he would have a valid, good faith interest in the property had not title vested in the United States; and

(2) Establishes that he had no actual or constructive notice, prior to the vesting of title in the United States, that the property was in the custody of a bureau and that title, after the appropriate time period, would vest in the United States. A claimant shall be presumed to have constructive notice upon publication in a suitable medium concerning the property unless he was in such circumstances as to prevent him from knowing of the status of the property or having the opportunity to see the notice.

Part 128-50—Seized Personal Property

Sec.
128-50.000 Scope of part.
128-50.001 Definitions.
128-50.001-1 Seized personal property.

Subpart 128-50.1—Storage and Care of Seized Personal Property

128-50.100 Storage and care.
128-50.101 Inventory records.
128-50.102 Periodic reviews.
128-50.103 Investigation of any discrepancy.

Authority: 41 CFR 128-1.105.

Source: 43 FR 3279, Jan. 24, 1978, unless otherwise noted.

§ 128-50.000 Scope of part.

This part prescribes the policies for the storage and care of seized personal property; the preparation and maintenance of inventory records of its seized personal property; the conducting of periodic internal reviews; and the investigation of any discrepancy between the inventory records and the actual amount of its seized personal property.

§ 128-50.001 Definitions.

§ 128-50.001-1 Seized personal property.

Personal property for which the Government does not have title but which the Government has obtained custody or control of in accordance with 15 U.S.C. 1177; 18 U.S.C. 924(d), 1955(d), 2513, 3611, 3612, 3615; 19 U.S.C. 1595a; 21 U.S.C. 881; 22 U.S.C. 401; Fed. R. Crim. P. 41(b); 28 CFR 0.86, 0.89, 0.111(j), 3.5, 3.6, 8.1, 8.2, 9a.1, 9a.2; or other statutory authority.

Subpart 128-50.1—Storage and Care of Seized Personal Property

§ 128-50.100 Storage and care.

(a) Each bureau shall be responsible for providing that its seized personal property storage facilities meet the safeguarding standards applicable to the type of property being stored.

(b) Each bureau shall be responsible for performing care on its seized personal property to prevent the unnecessary deterioration of such property. In particular, a bureau preparing a seized vehicle for storage should be at a minimum;

(1) Protect the cooling system from freezing;

(2) Protect the battery by assuring it is properly watered;

(3) Protect the tires by inflating to correct pressure;

(4) Remove all articles found in the vehicle's interior (for example, easily removable radios, tape players, and speakers) and all exterior accessories (for example, wheel covers) that are subject to pilferage and properly store them; and

(5) Shut all windows and lock all doors and compartments that have locks.

§ 128-50.101 Inventory records.

Each bureau shall be responsible for establishing and maintaining inventory records of its seized personal property to ensure that:

(a) The date the property was seized is recorded;

(b) All of the property associated with a case is recorded together under the case name and number;

(c) The location of storage of the property is recorded;

(d) A well documented chain of custody is kept; and

(e) All information in the inventory records is accurate and current.

§ 128-50.102 Periodic reviews.

Each bureau shall be responsible for performing an independent accountability review at least once a year to ensure compliance with this subpart and with the bureau's procedures for the handling, storage, and disposal of its seized personal property. In particular, a bureau conducting a review shall verify that the inventory records are accurate, current, and are being kept in accordance with established inventory procedures.

§ 128-50.103 Investigation of any discrepancy.

(a) Upon discovery of any discrepancy between the inventory records and the bureau's actual amount of seized personal property, a board of survey shall conduct an investigation in accordance with 41 CFR 128-51.1.

(b) If the discrepancy cannot be eliminated and involves a shortage, the bureau shall notify the U.S. attorney in charge of the litigation involving the missing property of the shortage as soon as possible.

(c) If the discrepancy cannot be eliminated and involves an overage, the bureau shall determine if the property has any evidentiary value. If the property does have evidentiary value, the property shall be properly stored and inventoried. If the property does not have any evidentiary value, the bureau shall determine whether the property is forfeitable to the United States, voluntarily abandoned, or abandoned. Proper proceedings shall be commenced as soon as possible to vest title of the forfeitable property in the United States. The voluntarily abandoned and abandoned property shall be kept in custody in accordance with 41 CFR 101-48 and any applicable Justice property management regulations.

Subtitle D—Other Provisions Relating to Property Management

[Reserved]

Blank Page

FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published annually.

Table of CFR Titles and Chapters
Alphabetical List of Agencies Appearing in the CFR
List of CFR Sections Affected

Blank Page

Table of CFR Titles and Chapters

(As of June 18, 1982)

Title 1—General Provisions

Chap.	
I	Administrative Committee of the Federal Register (Parts 1-49)
II	Office of the Federal Register (Parts 50-299)
III	Administrative Conference of the United States (Parts 300-399)
IV	Miscellaneous Agencies (Parts 400-499)

Title 2—[Reserved]

Title 3—The President

	Proclamations
	Executive Orders
	Presidential Documents Other Than Proclamations and Executive Orders
I	Executive Office of the President (Parts 100-199)

Title 4—Accounts

I	General Accounting Office (Parts 1-99)
II	Federal Claims Collection Standards (General Accounting Office—Department of Justice) (Parts 100-299)
III	General Accounting Office (CASB) (Parts 300-499)

Title 5—Administrative Personnel

I	Office of Personnel Management (Parts 1-1199)
II	Merit Systems Protection Board (Parts 1200-1299)
III	Office of Management and Budget (Parts 1300-1399)
IV	Advisory Committee on Federal Pay (Parts 1400-1499)
V	The International Organizations Employees Loyalty Board (Parts 1500-1599)
VII	Advisory Commission on Intergovernmental Relations (Parts 1700-1799)
IX	Appalachian Regional Commission (Parts 1900-1999)
XI	United States Soldiers' and Airmen's Home (Parts 2100-2199)
XIV	Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2400-2499)

Title 5—Administrative Personnel—Continued

Chap.	
XV	Office of Administration, Executive Office of the President (Parts 2500-2599)

Title 6—[Reserved]

Title 7—Agriculture

	SUBTITLE A—Office of the Secretary of Agriculture (Parts 0-25a)
	SUBTITLE B—Regulations of the Department of Agriculture
I	Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 26-209)
II	Food and Nutrition Service, Department of Agriculture (Parts 210-299)
III	Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300-399)
IV	Federal Crop Insurance Corporation, Department of Agriculture (Parts 400-499)
V	Agricultural Research Service, Department of Agriculture (Parts 500-599)
VI	Soil Conservation Service, Department of Agriculture (Parts 600-699)
VII	Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture (Parts 700-799)
VIII	Federal Grain Inspection Service, Department of Agriculture (Parts 800-899)
IX	Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900-999)
X	Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000-1199)
XI	Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200-1299)
XII	Statistical Reporting Service (Agricultural Statistics), Department of Agriculture (Parts 1300-1399) [Reserved]
XIV	Commodity Credit Corporation, Department of Agriculture (Parts 1400-1499)
XV	Foreign Agricultural Service, Department of Agriculture (Parts 1500-1599)
XVI	Rural Telephone Bank, Department of Agriculture (Parts 1600-1699)
XVII	Rural Electrification Administration, Department of Agriculture (Parts 1700-1799)
XVIII	Farmers Home Administration, Department of Agriculture (Parts 1800-2099)
XXI	Foreign Economic Development Service, Department of Agriculture (Parts 2100-2199)
XXIV	Board of Contract Appeals, Department of Agriculture (Parts 2400-2499)

Title 7—Agriculture—Continued

Chap.	
XXV	Office of the General Sales Manager, Department of Agriculture (Parts 2500-2599)
XXVI	Office of the Inspector General, Department of Agriculture (Parts 2600-2699)
XXIX	Office of Energy, Department of Agriculture (Parts 2900-2999)
XXX	Office of Operations and Finance, Department of Agriculture (Parts 3000-3099)
XXXI	Office of Environmental Quality, Department of Agriculture (Parts 3100-3199)

Title 8—Aliens and Nationality

I	Immigration and Naturalization Service, Department of Justice (Parts 1-499)

Title 9—Animals and Animal Products

I	Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1-199)
II	Packers and Stockyards Administration, Department of Agriculture (Parts 200-299)
III	Food Safety and Inspection Service, Meat and Poultry Inspection, Department of Agriculture (Parts 300-399)

Title 10—Energy

I	Nuclear Regulatory Commission (Parts 0-199)
II	Department of Energy (Parts 200-699)
III	Department of Energy (Parts 700-999)
X	Department of Energy (General Provisions) (Parts 1000-1099)
XV	Office of the Federal Inspector for the Alaska Natural Gas Transportation System (Parts 1500-1599)

Title 11—Federal Elections

I	Federal Election Commission (Parts 1-9099)

Title 12—Banks and Banking

I	Comptroller of the Currency, Department of the Treasury (Parts 1-199)
II	Federal Reserve System (Parts 200-299)
III	Federal Deposit Insurance Corporation (Parts 300-399)
IV	Export-Import Bank of the United States (Parts 400-499)
V	Federal Home Loan Bank Board (Parts 500-599)
VI	Farm Credit Administration (Parts 600-699)
VII	National Credit Union Administration (Parts 700-799)
VIII	Federal Financing Bank (Parts 800-899)
XI	Federal Financial Institutions Examination Council (Parts 1100-1199)

90-147 O—82——26

Title 12—Banks and Banking—Continued

Chap.	
XII	Depository Institutions Deregulation Committee (Parts 1200-1299)

Title 13—Business Credit and Assistance

I	Small Business Administration (Parts 1-199)
III	Economic Development Administration, Department of Commerce (Parts 300-399)
IV	Chrysler Corporation Loan Guarantee Board (Parts 400-499)
V	Regional Action Planning Commissions (Parts 500-599)

Title 14—Aeronautics and Space

I	Federal Aviation Administration, Department of Transportation (Parts 1-199)
II	Civil Aeronautics Board (Parts 200-399)
V	National Aeronautics and Space Administration (Parts 1200-1299)

Title 15—Commerce and Foreign Trade

	SUBTITLE A—Office of the Secretary of Commerce (Parts 0-19)
	SUBTITLE B—Regulations Relating to Commerce and Foreign Trade
I	Bureau of the Census, Department of Commerce (Parts 20-199)
II	National Bureau of Standards, Department of Commerce (Parts 200-299)
III	International Trade Administration, Department of Commerce (Parts 300-399)
IV	Foreign-Trade Zones Board (Parts 400-499)
V	United States Metric Board (Parts 500-599)
VI	Bureau of Industrial Economics, Department of Commerce (Parts 600-699)
VIII	Bureau of Economic Analysis, Department of Commerce (Parts 800-899)
IX	National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900-999)
XII	United States Travel Service, Department of Commerce (Parts 1200-1299)
XIII	East-West Foreign Trade Board (Parts 1300-1999)
	SUBTITLE C—Regulations Relating to Foreign Trade Agreements
XX	Office of the United States Trade Representative (Parts 2000-2099)
	SUBTITLE D—Regulations Relating to Telecommunications and Information
XXIII	National Telecommunications and Information Administration, Department of Commerce (Parts 2300-2399)

Title 16—Commercial Practices

Chap.	
I	Federal Trade Commission (Parts 0-999)
II	Consumer Product Safety Commission (Parts 1000-1799)

Title 17—Commodity and Securities Exchanges

I	Commodity Futures Trading Commission (Parts 1-199)
II	Securities and Exchange Commission (Parts 200-399)

Title 18—Conservation of Power and Water Resources

I	Federal Energy Regulatory Commission, Department of Energy (Parts 1-399)
III	Delaware River Basin Commission (Parts 400-499)
IV	Office of Water Resources Research, Department of the Interior (Parts 500-599)
VI	Water Resources Council (Parts 700-799)
VIII	Susquehanna River Basin Commission (Parts 800-899)
XIII	Tennessee Valley Authority (Parts 1300-1399)

Title 19—Customs Duties

I	United States Customs Service, Department of the Treasury (Parts 1-199)
II	United States International Trade Commission (Parts 200-299)
III	International Trade Administration, Department of Commerce (Parts 300-399)

Title 20—Employees' Benefits

I	Office of Workers' Compensation Programs, Department of Labor (Parts 1-199)
II	Railroad Retirement Board (Parts 200-399)
III	Social Security Administration, Department of Health and Human Services (Parts 400-499)
IV	Employees' Compensation Appeals Board, Department of Labor (Parts 500-599)
V	Employment and Training Administration, Department of Labor (Parts 600-699)
VI	Employment Standards Administration, Department of Labor (Parts 700-799)
VII	Benefits Review Board, Department of Labor (Parts 800-899)
VIII	Joint Board for the Enrollment of Actuaries (Parts 900-999)

Title 21—Food and Drugs

I	Food and Drug Administration, Department of Health and Human Services (Parts 1-1299)
II	Drug Enforcement Administration, Department of Justice (Parts 1300-1399)

Title 22—Foreign Relations

Chap.	
I	Department of State (Parts 1-199)
II	Agency for International Development, International Development Cooperation Agency (Parts 200-299)
III	Peace Corps (Parts 300-399)
IV	International Joint Commission, United States and Canada (Parts 400-499)
V	International Communication Agency (Parts 500-599)
VI	United States Arms Control and Disarmament Agency (Parts 600-699)
VII	Overseas Private Investment Corporation (Parts 700-799)
VIII	Employee-Management Relations Commission (Parts 800-899)
IX	Foreign Service Grievance Board (Parts 900-999)
X	Inter-American Foundation (Parts 1000-1099)
XI	International Boundary and Water Commission, United States and Mexico, United States Section (Parts 1100-1199)
XII	United States International Development Cooperation Agency (Parts 1200-1299)
XIII	Board for International Broadcasting (Parts 1300-1399)
XIV	Foreign Service Labor Relations Board; Federal Labor Relations Authority; General Counsel of the Federal Labor Relations Authority; and the Foreign Service Impasse Disputes Panel (Parts 1400-1499)

Title 23—Highways

I	Federal Highway Administration, Department of Transportation (Parts 1-999)
II	National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200-1299)

Title 24—Housing and Urban Development

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0-99)

Subtitle B—Regulations Relating to Housing and Urban Development

I	Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100-199)
II	Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200-299)
III	Government National Mortgage Association, Department of Housing and Urban Development (Parts 300-399)
IV	Office of Assistant Secretary for Housing Management, Department of Housing and Urban Development (Parts 400-499)
V	Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500-599)

Title 24—Housing and Urban Development—Continued

Chap.	
VI	Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 600-699)
VII	New Community Development Corporation, Department of Housing and Urban Development (Parts 700-799)
VIII	Low-Income Housing, Department of Housing and Urban Development (Parts 800-899)
IX	Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 1700-1799)
X	Solar Energy and Energy Conservation Bank, Department of Housing and Urban Development (Parts 1800-1899)
XV	Mortgage Insurance and Loan Programs Under the Emergency Homeowners' Relief Act, Department of Housing and Urban Development (Parts 2700-2799)
XX	Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200-3699)
XXV	Neighborhood Reinvestment Corporation (Parts 4100-4199)

Title 25—Indians

I	Bureau of Indian Affairs, Department of the Interior (Parts 1-299)
II	Indian Arts and Crafts Board, Department of the Interior (Parts 300-399)
IV	Navajo and Hopi Indian Relocation Commission (Parts 700-799)

Title 26—Internal Revenue

I	Internal Revenue Service, Department of the Treasury (Parts 1-699)

Title 27—Alcohol, Tobacco Products and Firearms

I	Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1-299)

Title 28—Judicial Administration

I	Department of Justice (Parts 0-199)
III	Federal Prison Industries, Department of Justice (Parts 300-399)
V	Bureau of Prisons, Department of Justice (Parts 500-599)

Title 29—Labor

	SUBTITLE A—Office of the Secretary of Labor (Parts 0-99)
	SUBTITLE B—Regulations Relating to Labor
I	National Labor Relations Board (Parts 100-199)

Title 29—Labor—Continued

Chap.	
II	Office of the Assistant Secretary for Labor-Management Relations, Department of Labor (Parts 200-299)
III	National Railroad Adjustment Board (Parts 300-399)
IV	Office of Labor-Management Standards Enforcement, Department of Labor (Parts 400-499)
V	Wage and Hour Division, Department of Labor (Parts 500-899)
IX	Construction Industry Collective Bargaining Commission (Parts 900-999)
X	National Mediation Board (Parts 1200-1299)
XII	Federal Mediation and Conciliation Service (Parts 1400-1499)
XIV	Equal Employment Opportunity Commission (Parts 1600-1699)
XVII	Occupational Safety and Health Administration, Department of Labor (Parts 1900-1999)
XX	Occupational Safety and Health Review Commission (Parts 2200-2499)
XXV	Pension and Welfare Benefit Programs, Department of Labor (Parts 2500-2599)
XXVI	Pension Benefit Guaranty Corporation (Parts 2600-2699)
XXVII	Federal Mine Safety and Health Review Commission (Parts 2700-2799)

Title 30—Mineral Resources

I	Mine Safety and Health Administration, Department of Labor (Parts 1-199)
II	Geological Survey, Department of the Interior (Parts 200-299)
III	Board of Surface Mining and Reclamation Appeals, Department of the Interior (Parts 300-399)
VI	Bureau of Mines, Department of the Interior (Parts 600-699)
VII	Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700-999)

Title 31—Money and Finance: Treasury

	SUBTITLE A—Office of the Secretary of the Treasury (Parts 0-50)
	SUBTITLE B—Regulations Relating to Money and Finance
I	Monetary Offices, Department of the Treasury (Parts 51-199)
II	Fiscal Service, Department of the Treasury (Parts 200-399)
IV	Secret Service, Department of the Treasury (Parts 400-499)
V	Office of Foreign Assets Control, Department of the Treasury (Parts 500-599)
VI	Bureau of Engraving and Printing, Department of the Treasury (Parts 600-699)
VII	Federal Law Enforcement Training Center, Department of the Treasury (Parts 700-799)

Title 32—National Defense

Chap.	
	SUBTITLE A—Department of Defense
I	Office of the Secretary of Defense (Parts 1-499)
V	Department of the Army (Parts 500-699)
VI	Department of the Navy (Parts 700-799)
VII	Department of the Air Force (Parts 800-1099)
	SUBTITLE B—Other Regulations Relating to National Defense
XII	Defense Logistics Agency (Parts 1200-1299)
XVI	Selective Service System (Parts 1600-1699)
XIX	Central Intelligence Agency (Parts 1900-1999)
XX	Information Security Oversight Office (Parts 2000-2099)
XXI	National Security Council (Parts 2100-2199)
XXIV	Office of Science and Technology Policy (Parts 2400-2499)
XXVII	Office for Micronesian Status Negotiations (Parts 2700-2799)
XXVIII	Office of the Vice President of the United States (Parts 2800-2899)

Title 33—Navigation and Navigable Waters

I	Coast Guard, Department of Transportation (Parts 1-199)
II	Corps of Engineers, Department of the Army (Parts 200-399)
IV	Saint Lawrence Seaway Development Corporation, Department of Transportation (Parts 400-499)

Title 34—Education

	SUBTITLE A—Office of the Secretary, Department of Education (Parts 1-99)
	SUBTITLE B—Regulations of the Offices of the Department of Education
I	Office for Civil Rights, Department of Education (Parts 100-199)
II	Office of Elementary and Secondary Education, Department of Education (Parts 200-299)
III	Office of Special Education and Rehabilitative Services, Department of Education (Parts 300-399)
IV	Office of Vocational and Adult Education, Department of Education (Parts 400-499)
V	Office of Bilingual Education and Minority Languages Affairs, Department of Education (Parts 500-599)
VI	Office of Postsecondary Education, Department of Education (Parts 600-699)
VII	Office of Educational Research and Improvement, Department of Education (Parts 700-799)
VIII	Office of Education for Overseas Dependents, Department of Education (Parts 800-899) [Reserved]

Title 35—Panama Canal

Chap.

I Panama Canal Regulations (Parts 1-299)

Title 36—Parks, Forests, and Public Property

I National Park Service, Department of the Interior (Parts 1-199)

II Forest Service, Department of Agriculture (Parts 200-299)

III Corps of Engineers, Department of the Army (Parts 300-399)

IV American Battle Monuments Commission (Parts 400-499)

V Smithsonian Institution (Parts 500-599)

VII Library of Congress (Parts 700-799)

VIII Advisory Council on Historic Preservation (Parts 800-899)

IX Pennsylvania Avenue Development Corporation (Parts 900-999)

X Commission of Fine Arts (Parts 1000-1099)

XI Architectural and Transportation Barriers Compliance Board (Parts 1100-1199)

Title 37—Patents, Trademarks, and Copyrights

I Patent and Trademark Office, Department of Commerce (Parts 1-199)

II Copyright Office, Library of Congress (Parts 200-299)

III Copyright Royalty Tribunal (Parts 300-399)

Title 38—Pensions, Bonuses, and Veterans' Relief

I Veterans Administration (Parts 0-99)

Title 39—Postal Service

I United States Postal Service (Parts 1-999)

III Postal Rate Commission (Parts 3000-3099)

Title 40—Protection of Environment

I Environmental Protection Agency (Parts 1-799)

IV Low-Emission Vehicle Certification Board (Parts 1400-1499)

V Council on Environmental Quality (Parts 1500-1599)

Title 41—Public Contracts and Property Management

SUBTITLE A—Federal Procurement Regulations System

1 Federal Procurement Regulations (Parts 1-1—1-99)

3 Department of Health and Human Services (Parts 3-1—3-99)

4 Department of Agriculture (Parts 4-1—4-99)

5 General Services Administration (Part 5-1—5-99)

5A Office of Acquisition Policy, General Services Administration (Parts 5A-1—5A-99)

5B Office of Acquisition Policy, General Services Administration (Parts 5B-1—5B-99)

Title 41—Public Contracts and Property Management—Continued

Chap.	
6	Department of State (Parts 6-1—6-99)
7	Agency for International Development, International Development Cooperation Agency (Parts 7-1—7-99)
8	Veterans Administration (Parts 8-1—8-99)
9	Department of Energy (Parts 9-1—9-99)
10	Department of the Treasury (Parts 10-1—10-99)
12	Department of Transportation (Parts 12-1—12-99)
13	Department of Commerce (Parts 13-1—13-99)
14	Department of the Interior (Parts 14-1—14-99)
14H	Bureau of Indian Affairs, Department of the Interior (Parts 14H-1—14H-99)
14R	Office of Water Research and Technology, Department of the Interior (Parts 14R-1—14R-99)
15	Environmental Protection Agency (Parts 15-1—15-99)
16	Office of Personnel Management (Parts 16-1—16-26)
18	National Aeronautics and Space Administration (Parts 18-1—18-99)
19	International Communication Agency (Parts 19-1—19-99)
20	Nuclear Regulatory Commission (Parts 20-1—20-99)
22	Community Services Administration (Parts 22-1—22-99)
23	United States Arms Control and Disarmament Agency (Parts 23-1—23-99)
24	Department of Housing and Urban Development (Parts 24-1—24-99)
25	National Science Foundation (Parts 25-1—25-99)
28	Department of Justice (Parts 28-1—28-99)
29	Department of Labor (Parts 29-1—29-99)
34	Department of Education (Parts 34-1—34-99)
44	Federal Emergency Management Agency (Parts 44-1—44-99)
	SUBTITLE B—Other Provisions Relating to Public Contracts
50	Public Contracts, Department of Labor (Parts 50-1—50-999)
51	Committee for Purchase from the Blind and Other Severely Handicapped (Parts 51-1—51-99)
60	Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Parts 60-1—60-99)
	SUBTITLE C—Federal Property Management Regulations System
101	Federal Property Management Regulations (Parts 101-1—101-99)
105	General Services Administration (Parts 105-1—105-999)
109	Department of Energy, Property Management Regulations (Parts 109-1—109-99)
114	Department of the Interior (Parts 114-1—114-99)
115	Environmental Protection Agency (Parts 115-1—115-99)
128	Department of Justice (Parts 128-1—128-99)

Title 41—Public Contracts and Property Management—Continued

Chap.	
	SUBTITLE D—Other Provisions Relating to Property Management [Reserved]

Title 42—Public Health

I	Public Health Service, Department of Health and Human Services (Parts 1-199)
III	Saint Elizabeths Hospital, Department of Health and Human Services (Parts 300-399)
IV	Health Care Financing Administration, Department of Health and Human Services (Parts 400-499)

Title 43—Public Lands: Interior

	SUBTITLE A—Office of the Secretary of the Interior (Parts 1-199)
	SUBTITLE B—Regulations Relating to Public Lands
I	Bureau of Reclamation, Department of the Interior (Parts 200-499)
II	Bureau of Land Management, Department of the Interior (Parts 1000-9999)

Title 44—Emergency Management and Assistance

I	Federal Emergency Management Agency (Parts 0-399)
IV	Department of Commerce and Department of Transportation (Parts 400-499)

Title 45—Public Welfare

	SUBTITLE A—Department of Health and Human Services, General Administration (Parts 1-199)
	SUBTITLE B—Regulations Relating to Public Welfare
II	Office of Family Assistance (Assistance Programs), Department of Health and Human Services (Parts 200-299)
III	Office of Child Support Enforcement (Child Support Enforcement Program), Department of Health and Human Services (Parts 300-399)
IV	Office of Refugee Resettlement, Social Security Administration, Department of Health and Human Services (Parts 400-499)
V	Foreign Claims Settlement Commission of the United States, Department of Justice (Parts 500-599)
VI	National Science Foundation (Parts 600-699)
VII	Commission on Civil Rights (Parts 700-799)
VIII	Office of Personnel Management (Parts 800-899)
X	Community Services Administration (Parts 1000-1099)
XI	National Foundation on the Arts and the Humanities (Parts 1100-1199)
XII	ACTION (Parts 1200-1299)

Title 45—Public Welfare—Continued

Chap.	
XIII	Office of Human Development Services, Department of Health and Human Services (Parts 1300-1399)
XVI	Legal Services Corporation (Parts 1600-1699)
XVII	National Commission on Libraries and Information Science (Parts 1700-1799)
XVIII	Harry S Truman Scholarship Foundation (Parts 1800-1899)
XIX	National Commission on the Observance of International Women's Year (Parts 1900-1999)
XXI	Commission of Fine Arts (Parts 2100-2199)

Title 46—Shipping

I	Coast Guard, Department of Transportation (Parts 1-199)
II	Maritime Administration, Department of Transportation (Parts 200-399)
III	Coast Guard (Great Lakes Pilotage), Department of Transportation (Parts 400-499)
IV	Federal Maritime Commission (Parts 500-599)

Title 47—Telecommunication

I	Federal Communications Commission (Parts 0-199)
II	Office of Science and Technology Policy and National Security Council (Parts 200-299)

Title 48—[Reserved]

Title 49—Transportation

	SUBTITLE A—Office of the Secretary of Transportation (Parts 1-99)
	SUBTITLE B—Other Regulations Relating to Transportation
I	Research and Special Programs Administration, Department of Transportation (Parts 100-199)
II	Federal Railroad Administration, Department of Transportation (Parts 200-299)
III	Federal Highway Administration, Department of Transportation (Parts 300-399)
IV	Coast Guard, Department of Transportation (Parts 400-499)
V	National Highway Traffic Safety Administration, Department of Transportation (Parts 500-599)
VI	Urban Mass Transportation Administration, Department of Transportation (Parts 600-699)
VII	National Railroad Passenger Corporation (AMTRAK) (Parts 700-799)
VIII	National Transportation Safety Board (Parts 800-899)
IX	United States Railway Association (Parts 900-999)
X	Interstate Commerce Commission (Parts 1000-1399)

Title 50—Wildlife and Fisheries

Chap.	
I	United States Fish and Wildlife Service, Department of the Interior (Parts 1-199)
II	National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200-299)
III	International Regulatory Agencies (Fishing and Whaling) (Parts 300-399)
IV	Joint Regulations (United States Fish and Wildlife Service, Department of the Interior and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce); Endangered Species Committee Regulations (Parts 400-499)
V	Marine Mammal Commission (Parts 500-599)
VI	Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600-699)

CFR Index and Finding Aids

Subject/Agency Index

List of CFR Titles, Chapters, Subchapters, and Parts

Parallel Tables of Statutory Authorities and Rules

Acts Requiring Publication in the Federal Register

Alphabetical List of Agencies Appearing in the CFR

(As of June 18, 1982)

Agency	CFR Title, Subtitle or Chapter
ACTION	45, XII
Acquisition Policy, Office of	41, 5A, 5B
Administrative Committee of the Federal Register	1, I
Administrative Conference of the United States	1, III
Advisory Commission on Intergovernmental Relations	5, VII
Advisory Committee on Federal Pay	5, IV
Advisory Council on Historic Preservation	36, VIII
Agency for International Development	22, II; 41, 7
Agricultural Marketing Service	7, I, IX, X, XI
Agricultural Research Service	7, V
Agricultural Stabilization and Conservation Service	7, VII
Agriculture Department	
Agricultural Marketing Service	7, I, IX, X, XI
Agricultural Research Service	7, V
Agricultural Stabilization and Conservation Service	7, VII
Animal and Plant Health Inspection Service	7, III; 9, I, III
Commodity Credit Corporation	7, XIV
Contract Appeals, Board of	7, XXIV
Energy, Office of	7, XXIX
Environmental Quality, Office of	7, XXXI
Farmers Home Administration	7, XVIII
Federal Crop Insurance Corporation	7, IV
Federal Grain Inspection Service	7, VIII
Federal Procurement Regulations System	41, 4
Food and Nutrition Service	7, II
Food Safety and Inspection Service	9, III
Foreign Agricultural Service	7, XV
Foreign Economic Development Service	7, XXI
Forest Service	36, II
General Sales Manager, Office of	7, XXV
Inspector General, Office of	7, XXVI
Operations and Finance, Office of	7, XXX
Packers and Stockyards Administration	9, II
Rural Electrification Administration	7, XVII
Rural Telephone Bank	7, XVI
Secretary of Agriculture, Office of	7, Subtitle A
Soil Conservation Service	7, VI
Air Force Department	32, VII
Alaska Natural Gas Transportation System, Office of the Federal Inspector	10, XV
Alcohol, Tobacco and Firearms, Bureau of	27, I
AMTRAK	49, VII
American Battle Monuments Commission	36, IV
Animal and Plant Health Inspection Service	7, III; 9, I
Appalachian Regional Commission	5, IX
Architectural and Transportation Barriers Compliance Board	36, XI
Arms Control and Disarmament Agency, U.S.	22, VI; 41, 23
Army Department	32, V
Engineers, Corps of	33, II; 36, III
Benefits Review Board	20, VII

Agency	CFR Title, Subtitle or Chapter
Bilingual Education and Minority Languages Affairs, Office of	34, V
Blind and Other Severely Handicapped, Committee for Purchase from	41, 51
Board for International Broadcasting	22, XIII
Budget, Office of Management and	5, III
Census Bureau	15, I
Central Intelligence Agency	32, XIX
Child Support Enforcement, Office of	45, III
Chrysler Corporation Loan Guarantee Board	13, IV
Civil Aeronautics Board	14, II
Civil Rights Commission	45, VII
Civil Rights, Office for (Education Department)	34, I
Claims Collection Standards, Federal	4, II
Coast Guard	33, I; 46, I, III; 49, IV
Commerce Department	
Census Bureau	15, I
Economic Analysis, Bureau of	15, VIII
Economic Development Administration	13, III
Endangered Species Committee	50, IV
Federal Procurement Regulations System	41, 13
Fishery Conservation and Management	50, VI
Industrial Economics, Bureau of	15, VI
International Trade Administration	15, III; 19, III
National Bureau of Standards	15, II
National Defense	44, IV
National Marine Fisheries Service	50, II, IV
National Oceanic and Atmospheric Administration	15, IX; 50, II, IV
National Telecommunications and Information Administration	15, XXIII
Patent and Trademark Office	37, I
Secretary of Commerce, Office of	15, Subtitle A
United States Travel Service	15, XII
Commission on the Review of the National Policy Toward Gambling	1, IV
Committee for Purchase from Blind and Other Severely Handicapped	41, 51
Commodity Credit Corporation	7, XIV
Commodity Futures Trading Commission	17, I
Community Planning and Development, Office of Assistant Secretary for	24, V, VI
Community Services Administration	41, 22; 45, X
Comptroller of the Currency	12, I
Construction Industry Collective Bargaining Commission	29, IX
Consumer Product Safety Commission	16, II
Contract Appeals, Board of	7, XXIV
Copyright Office	37, II
Copyright Royalty Tribunal	37, III
Council on Environmental Quality	40, V
Customs Service, United States	19, I
Defense Department	32, Subtitle A
Air Force Department	32, VII
Army Department	32, V; 33, II; 36, III
Defense Civil Preparedness Agency	32, XVIII
Engineers, Corps of	33, II; 36, III
Navy Department	32, VI
Secretary of Defense, Office of	32, I
Defense Logistics Agency	32, XII
Defense Manpower Commission	1, IV
Delaware River Basin Commission	18, III
Depository Institutions Deregulation Committee	12, XII
Drug Enforcement Administration	21, II
East-West Foreign Trade Board	15, XIII
Economic Analysis, Bureau of	15, VIII
Economic Development Administration	13, III
Education, Department of	

Agency	CFR Title, Subtitle or Chapter
Bilingual Education and Minority Languages Affairs, Office of	34, V
Civil Rights, Office for	34, I
Education for Overseas Dependents, Office of	34, VIII
Educational Research and Improvement, Office of	34, VII
Elementary and Secondary Education, Office of	34, II
Federal Procurement Regulations System	41, 34
Postsecondary Education, Office of	34, VI
Secretary of Education, Office of	34, Subtitle A
Special Education and Rehabilitative Services, Office of	34, III
Vocational and Adult Education, Office of	34, IV
Education for Overseas Dependents, Office of	34, VIII
Educational Research and Improvement, Office of	34, VII
Elementary and Secondary Education, Office of	34, II
Employee Benefits Security, Office of	29, XXV
Employee-Management Relations Commission	22, VIII
Employees' Compensation Appeals Board	20, IV
Employees Loyalty Board, International Organizations	5, V
Employment and Training Administration	20, V
Employment Standards Administration	20, VI
Endangered Species Committee	50, IV
Energy, Department of	10, II, III, X; 41, 109
Federal Energy Regulatory Commission	18, I
Federal Procurement Regulations System	41, 9
Energy, Office of, Department of Agriculture	7, XXIX
Engineers, Corps of	33, II; 36, III
Engraving and Printing, Bureau of	31, VI
Environmental Protection Agency	40, I; 41, 15, 115
Environmental Quality, Office of (Agriculture Department)	7, XXXI
Equal Employment Opportunity	41, 60
Equal Employment Opportunity Commission	29, XIV
Equal Opportunity, Office of Assistant Secretary for	24, I
Executive Office of the President	3, I
Administration, Office of	5, XV
Export-Import Bank of the United States	12, IV
Family Assistance, Office of	45, II
Farm Credit Administration	12, VI
Farmers Home Administration	7, XVIII
Federal Aviation Administration	14, I
Federal Claims Collection Standards	4, II
Federal Communications Commission	47, I
Federal Contract Compliance, Office of	41, 60
Federal Crop Insurance Corporation	7, IV
Federal Deposit Insurance Corporation	12, III
Federal Election Commission	11, I
Federal Emergency Management Agency	41, 44; 44, I
Federal Energy Regulatory Commission	18, I
Federal Financial Institutions Examination Council	12, XI
Federal Financing Bank	12, VIII
Federal Grain Inspection Service	7, VIII
Federal Highway Administration	23, I, II; 49, III
Federal Home Loan Bank Board	12, V
Federal Inspector for the Alaska Natural Gas Transportation System, Office of	10, XV
Federal Labor Relations Authority, and General Counsel of the Federal Labor Relations Authority	5, XIV; 22,XIV
Federal Law Enforcement Training Center	31, VII
Federal Maritime Commission	46, IV
Federal Mediation and Conciliation Service	29, XII
Federal Mine Safety and Health Review Commission	29, XXVII
Federal Pay, Advisory Committee on	5, IV
Federal Prison Industries	28, III
Federal Procurement Regulations	41, I
Federal Procurement Regulations System	41, Subtitle A
Federal Property Management Regulations	41, 101
Federal Property Management Regulations System	41, Subtitle C

Agency	CFR Title, Subtitle or Chapter
Federal Railroad Administration	49, II
Federal Register, Administrative Committee of	1, I
Federal Register, Office of	1, II
Federal Reserve System	12, II
Federal Services Impasses Panel	5, XIV
Federal Trade Commission	16, I
Fine Arts Commission	36, X; 45, XXI
Fiscal Service	31, II
Fish and Wildlife Service, United States	50, I, IV
Fishery Conservation and Management	50, VI
Fishing and Whaling, International Regulatory Agencies	50, III
Food and Drug Administration	21, I
Food and Nutrition Service	7, II
Food Safety and Inspection Service	9, III
Foreign Agricultural Service	7, XV
Foreign Assets Control, Office of	31, V
Foreign Claims Settlement Commission of United States	45, V
Foreign Economic Development Service	7, XXI
Foreign Service Grievance Board	22, IX
Foreign Service Impasse Disputes Panel	22, XIV
Foreign Service Labor Relations Board	22, XIV
Foreign-Trade Zones Board	15, IV
Forest Service	36, II
General Accounting Office	4, I, II, III
General Sales Manager, Office of	7, XXV
General Services Administration	41, 5
Acquisition Policy, Office of	41, 5A, 5B
Federal Procurement Regulations System	41, 1, 5A, 5B
Federal Property Management Regulations System	41, 101, 105
Geological Survey	30, II
Government National Mortgage Association	24, III
Great Lakes Pilotage	46, III
Harry S Truman Scholarship Foundation	45, XVIII
Health and Human Services, Department of	45, Subtitle A
Child Support Enforcement, Office of	45, III
Family Assistance, Office of	45, II
Federal Procurement Regulations System	41, 3
Food and Drug Administration	21, I
Harry S Truman Scholarship Foundation	45, XVIII
Health Care Financing Administration	42, IV
Human Development Office	45, XIII
Public Health Service	42, I
Refugee Resettlement, Office of	45, IV
St. Elizabeths Hospital	42, III
Social Security Administration	20, III; 45, IV
Health Care Financing Administration	42, IV
Housing and Urban Development, Department of	
Community Planning and Development, Office of Assistant Secretary for	24, V, VI
Equal Opportunity, Office of Assistant Secretary for	24, I
Federal Procurement Regulations System	41, 24
Government National Mortgage Association	24, III
Housing—Federal Housing Commissioner, Office of Assistant Secretary for	24, II, IX, XX
Housing Management, Office of Assistant Secretary for	24, IV
Low-Income Housing	24, VIII
Mortgage Insurance and Loan Programs Under Emergency Homeowners' Relief Act	24, XV
New Community Development Corporation	24, VII
Secretary, Office of	24, Subtitle A
Solar Energy and Energy Conservation Bank	24, X
Housing—Federal Housing Commissioner, Office of Assistant Secretary for	24, II, IX, XX
Housing Management, Office of Assistant Secretary for	24, IV
Human Development Services Office	45, XIII
Immigration and Naturalization Service	8, I

Agency	CFR Title, Subtitle or Chapter
Indian Affairs, Bureau of	25, I; 41, 14H
Indian Arts and Crafts Board	25, II
Industrial Economics, Bureau of, Commerce Department	15, VI
Information Agency, United States	22, V; 41, 19
Information Security Oversight Office	32, XX
Inspector General, Office of, Agriculture Department	7, XXVI
Inter-American Foundation	22, X
Intergovernmental Relations, Advisory Commission on	5, VII
Interior Department	
Endangered Species Committee	50, IV
Federal Procurement Regulations System	41, 14
Federal Property Management Regulations System	41, 114
Fish and Wildlife Service, United States	50, I, IV
Geological Survey	30, II
Indian Affairs, Bureau of	25, I; 41, 14H
Indian Arts and Crafts Board	25, II
Land Management Bureau	43, II
Mines, Bureau of	30, VI
National Park Service	36, I
Reclamation Bureau	43, I
Secretary of the Interior, Office of	43, Subtitle A
Surface Mining and Reclamation Appeals, Board of	30, III
Surface Mining Reclamation and Enforcement, Office of	30, VII
United States Fish and Wildlife Service	50, I, IV
Water Research and Technology, Office of	41, 14R
Water Resources Research, Office of	18, IV
Internal Revenue Service	26, I
International Boundary and Water Commission, United States and Mexico	22, XI
International Communication Agency	22, V; 41, 19
International Development, Agency for	22, II; 41, 7
International Development Cooperation Agency	22, II; 41, 7
International Joint Commission, United States and Canada	22, IV
International Organizations Employees Loyalty Board	5, V
International Regulatory Agencies (Fishing and Whaling)	50, III
International Trade Administration	15, III; 19, III
International Trade Commission, United States	19, II
Interstate Commerce Commission	49, X
Joint Board for the Enrollment of Actuaries	20, VIII
Justice Department	28, I; 41, 128
Drug Enforcement Administration	21, II
Federal Claims Collection Standards	4, II
Federal Prison Industries	28, III
Federal Procurement Regulations System	41, 28
Foreign Claims Settlement Commission of the United States	45, V
Immigration and Naturalization Service	8, I
Prisons, Bureau of	28, V
Labor Department	
Benefits Review Board	20, VII
Employees' Compensation Appeals Board	20, IV
Employment and Training Administration	20, V
Employment Standards Administration	20, VI
Federal Contract Compliance, Office of	41, 60
Federal Procurement Regulations System	41, 29, 50
Labor-Management Relations, Office of the Assistant Secretary	29, II
Labor-Management Standards Enforcement, Office of	29, IV
Mine Safety and Health Administration	30, I
Occupational Safety and Health Administration	29, XVII
Pension and Welfare Benefit Programs	29, XXV
Public Contracts	41, 50
Secretary of Labor, Office of	29, Subtitle A
Wage and Hour Division	29, V
Workers' Compensation Programs, Office of	20, I
Labor-Management Relations, Office of Assistant Secretary	29, II

Agency	CFR Title, Subtitle or Chapter
Labor-Management Standards Enforcement, Office of	29, IV
Land Management, Bureau of	43, II
Legal Services Corporation	45, XVI
Library of Congress	36, VII
Copyright Office	37, II
Low-Emission Vehicle Certification Board	40, IV
Low-Income Housing, Department of Housing and Urban Development	24, VIII
Management and Budget, Office of	5, III
Marine Mammal Commission	50, V
Maritime Administration	46, II
Merit Systems Protection Board	5, II
Micronesian Status Negotiations, Office for	32, XXVII
Mine Safety and Health Administration	30, I
Mines, Bureau of	30, VI
Miscellaneous Agencies	1, IV
Monetary Offices	31, I
Mortgage Insurance and Loan Programs Under the Emergency Homeowners' Relief Act, Department of Housing and Urban Development	24, XV
National Aeronautics and Space Administration	14, V; 41, 18
National Bureau of Standards	15, II
National Commission on Libraries and Information Science	45, XVII
National Commission on the Observance of International Women's Year	45, XIX
National Credit Union Administration	12, VII
National Foundation on the Arts and the Humanities	45, XI
National Highway Traffic Safety Administration	23, II; 49, V
National Labor Relations Board	29, I
National Marine Fisheries Service	50, II, IV
National Mediation Board	29, X
National Oceanic and Atmospheric Administration	15, IX; 50, II, VI
National Park Service	36, I
National Railroad Adjustment Board	
National Railroad Passenger Corporation (AMTRAK)	49, VII
National Science Foundation	45, VI; 41, 25
National Security Council	32, XXI
National Security Council and Office of Science and Technology Policy	47, II
National Telecommunications and Information Administration	15, XXIII
National Transportation Safety Board	49, VIII
Navajo and Hopi Indian Relocation Commission	25, IV
Navy Department	32, VI
Neighborhood Reinvestment Corporation	24, XXV
New Community Development Corporation	24, VII
Nuclear Regulatory Commission	10, I; 41, 20
Occupational Safety and Health Administration	29, XVII
Occupational Safety and Health Review Commission	29, XX
Overseas Private Investment Corporation	22, VII
Packers and Stockyards Administration	9, II
Panama Canal Regulations	35, I
Patent and Trademark Office	37, I
Peace Corps	22, III
Pennsylvania Avenue Development Corporation	36, IX
Pension Benefit Guaranty Corporation	29, XXVI
Pension and Welfare Benefit Programs, Department of Labor	29, XXV
Personnel Management, Office of	5, I; 41, 16; 45, VIII
Postal Rate Commission	39, III
Postal Service, United States	39, I
Postsecondary Education, Office of	34, VI
President's Commission on White House Fellowships	1, IV
Presidential Documents	3
Prisons, Bureau of	28, V
Privacy Protection Study Commission	1, IV

Agency	CFR Title, Subtitle or Chapter
Procurement Regulations System, Federal	41, Subtitle A
Property Management Regulations System, Federal	41, Subtitle C
Public Contracts, Department of Labor	41, 50
Public Health Service	42, I
Railroad Retirement Board	20, II
Railway Association, United States	49, IX
Reclamation Bureau	43, I
Refugee Resettlement, Office of	45, IV
Regional Action Planning Commissions	13, V
Research and Special Programs Administration	49, I
Rural Electrification Administration	7, XVII
Rural Telephone Bank	7, XVI
Saint Elizabeths Hospital	42, III
Saint Lawrence Seaway Development Corporation	33, IV
Science and Technology Policy, Office of	32, XXIV
Science and Technology Policy, Office of, and National Security Council	47, II
Secret Service	31, IV
Securities and Exchange Commission	17, II
Selective Service System	32, XVI
Small Business Administration	13, I
Smithsonian Institution	36, V
Social Security Administration	20, III; 45, IV
Soil Conservation Service	7, VI
Solar Energy and Energy Conservation Bank, Department of HUD	24, X
Soldiers' and Airmen's Home, United States	5, XI
Special Education and Rehabilitative Services, Office of	34, III
Special Representative for Trade Negotiations, Office of	15, XX
State Department	22, I
Federal Procurement Regulations System	41, 6
Surface Mining and Reclamation Appeals, Board of	30,III
Susquehanna River Basin Commission	18, VIII
Tennessee Valley Authority	18, XIII
Trade Representative, United States, Office of	15, XX
Transportation, Department of	
Coast Guard	33, I; 46, I, III; 49, IV
Federal Aviation Administration	14, I
Federal Highway Administration	23, I, II; 49, III
Federal Procurement Regulations System	41, 12
Federal Railroad Administration	49, II
Highway Safety Program Standards	23, II
Maritime Administration	46, II
National Defense	44, IV
National Highway Traffic Safety Administration	23, II; 49, V
Research and Science Programs Administration	49, I
Saint Lawrence Seaway Development Corporation	33, IV
Secretary, Office of	49, Subtitle A
Urban Mass Transportation Administration	49, VI
Travel Service, United States	15, XII
Treasury Department	
Alcohol, Tobacco and Firearms, Bureau of	27, I
Comptroller of the Currency	12, I
Customs Service, United States	19, I
Engraving and Printing, Bureau of	31, VI
Federal Law Enforcement Training Center	31, VII
Federal Procurement Regulations System	41, 10
Fiscal Service	31, II
Foreign Assets Control, Office of	31, V
Internal Revenue Service	26, I
Monetary Offices	31, I
Secret Service	31, IV
Secretary of the Treasury, Office of	31, Subtitle A
Truman, Harry S, Scholarship Foundation	45, XVIII
United States and Canada, International Joint Commission	22, IV
United States Arms Control and Disarmament Agency	22, VI; 41, 23

Agency	CFR Title, Subtitle or Chapter
United States Customs Service	19, I
United States Fish and Wildlife Service	50, I, IV
United States International Development Cooperation Agency	22, XII
United States International Trade Commission	19, II
United States Metric Board	15, V
United States Postal Service	39, I
United States Railway Association	49, IX
United States Soldiers' and Airmen's Home	5, XI
United States Trade Representative, Office of	15, XX
United States Travel Service	15, XII
Urban Mass Transportation Administration	49, VI
Veterans Administration	38, I; 41, 8
Vice President of the United States, Office of	32, XXVIII
Vocational and Adult Education, Office of	34, IV
Wage and Hour Division	29, V
Water Research and Technology, Office of	41, 14R
Water Resources Council	18, VI
Water Resources Research, Office of	18, IV
Welfare-Pension Reports, Office of Labor-Management and	29, IV
Workers' Compensation Programs, Office of	20, I

List of CFR Sections Affected

All changes in this volume of the Code of Federal Regulations which were made by documents published in the Federal Register since January 1, 1973, are enumerated in the following list. Entries indicate the nature of the changes effected. Page numbers refer to Federal Register pages. The user should consult the entries for chapters and parts as well as sections for revisions.

For the period before January 1, 1973, see the "List of CFR Sections Affected, 1949-1963 and 1964-1972," published in three separate volumes.

1973

41 CFR

	38 FR Page
Chapter 103	
103-1.108 (b) removed	5478
103-1.5002-10 Revised	5478
103-1.5002-11 Amended	5478
Chapter 114	
114.110 Revised; correctly designated	8158, 8743
114-3.105 Revised	8158
114-3.206 Introductory text revised	8158
114-25.350 Amended	8158
114-26.600-50 Amended	8153
114-35.204 (a) (2) revised; (a) (8), (9), (10), and (11) added	10444
114-38.5004 Amended	8159
114-38.5005 (e) redesignated as (f); new (e) added	8159
114-38.5312 (d) revised	8158
114-42.203 Introductory text of (a) revised	8158
114-45.000 (b) (1) revised	8159
114-45.105-3 Revised	8159
114-45.304-2 Revised	8159
114-45.304-9 Revised	8159
114-45.603 Revised	8159
114-46.407 Amended	8159
114-47.201-3 (a) amended	9081
114-47.202-1 (b) amended	9081
114-47.203-1 (d) amended	9081
114-47.203-7 (a) amended	9081
114-47.304-12 (a) and (c) revised	8159
114-50 Added	3965
114-50.100 Revised	7116
114-50.105 (a) revised	7116
114-50.201 (e)(5) revised	7116

41 CFR—Continued

	38 FR Page
Chapter 114—Continued	
114-50.311 Introductory text of (c) revised	7116
114-50.407-3 Introductory text and (b) revised	7116
114-50.501 Revised	7116
114-50.906 (b) revised	7116
114-52 Added	7460
114-60 Added	12401
114-60.200—114-60.203 (Subpart 114-60.2) Added	12402
114-60.300—114-60.303 (Subpart 114-60.3) Added	13737
114-60.400—114-60.406 (Subpart 114-60.4) Added	13738
114-60.500—114-60.501 (Subpart 114-60.5) Added	16064
114-60.600—114-60.604 (Subpart 114-60.6) Added	16064
114-60.700—114-60.705 (Subpart 114-60.7) Added	15723

1973–1974

(Regulations published from July 1, 1973 through June 30, 1974)

41 CFR

	38 (39*) FR Page
Chapter 105	
105-61.001-7 Added	*11884
105-61.101-1 (d) revised	*11884
105-61.101-3 (a) and (b) revised	*11884
105-61.105 Revised	*11884
105-61.301 Revised	*11885
105-61.302 Text removed	*11885
105-61.302-1 Added	*11885

Note: Symbol (*) refers to 1974 page numbers.

41 CFR—Continued

	38 (39*) FR Page
Chapter 105—Continued	
105-61.302-2 Added	*11885
105-61.302-3 Added	*11885
105-61.304 Heading revised; text removed	*11885
105-61.304-1 Revised	*11885
105-61.304-2 (a), (e), (f) and (i) revised	*11885
105-61.306 Revised	*11885
105-61.307 Added	*11885
105-61.4801 (a) revised; (h) amended; (i) added	*11885
105-64 Added	26604
Chapter 109	
109-40.106 Amended	22549
109-40.109 Amended	22549
109-40.305-5 Amended	22549
109-40.307 Amended	22549
Chapter 114	
114-3.105 Amended	*12989
114-3.205 Amended	*12989
114-3.206 Amended	*12989
114-25.350 Amended	*12989
114-25.4801 (a) amended	*12989
114-26.406-2 (d) amended	20327
114-26.501-52 Revised	*9668
114-26.600-50 (a), (b), and introductory text of (c) revised	31534
114-26.600-50 (c) amended	*1036, 12989
114-26.600-51 (f) amended	*12989
114-35.204 (a)(1) revised	22373
114-38.102-1 Amended	*12989
114-38.402 (a) amended	*12989
114-38.605—114-38.607 (Subpart 114-38.6) Revised	*12989
114-38.5307 (b) and (c) amended	*12989
114-38.5400—114-38.5402 (Subpart 114-38.54) Added	31835
114-39.404-3 Amended	*12989
114-39.404-4 Amended	*12989
114-40.307 Amended	*12989
114-42.302-2 Amended	*12989
114-43.319—114-43.319-52 (Subpart 114-43.3) Revised	26370
114-43.319 (b) amended	*12989
114-43.319-52 Amended	*12989
114-43.402-4 Amended	*12989
114-45.302 Introductory text, (a) (2), and (b) revised	20617
114-45.316-2 (b) amended	*12989
114-45.317 (c)(2)(v) amended	*12989
114-46.407 Amended	*12989
114-47.203-7 Amended	*12989

NOTE: Symbol (*) refers to 1974 page numbers.

41 CFR—Continued

	38 (39*) FR Page
Chapter 114—Continued	
114-47.301-5 (b) amended	*12989
114-47.304-8 (b) amended	*12969
114-47.304-51 (c)(2)(v) amended	*12989
114-47.802-54 (d) amended	*12989
114-50.109 Revised	24649
114-50.701 (a) and (b) added	24649
114-50.903 (e) added	24650
114-50.1003—114-50.1011 Redesignated as 114-50.1004—114-50.1012	24650
114-50.1009 (c) amended	24650
114-51.103—114-51.104-3 (Subpart 114-51.1) Revised	20617
114-52.203 (b) amended	*12989
114-60.104 Amended	*12989
114-60.605 Added	31535
114-60.605-1 Added	31535
114-60.800—114-60.804 (Subpart 114-60.8) Added	31535

1974–1975

(Regulations published July 1, 1974
through June 30, 1975)

41 CFR

	39 (40†) FR Page
Chapter 103	
Chapter (Parts 103-1—103-43) removed	24506
Chapter 105	
105-1 Added	25231
105-54 Redesignated from 105-64	25232
105-60 Revised	†8200
105-61.000—105-61.000-2 Revised	† 7924
105-61.001-7 Revised	†7924
105-61.101-1 (d) revised; (e) added	† 7924
105-61.101-2 Revised	†7925
105-61.102—105-61.102-6 Redesignated from 105-61.103—105-61.103-6 and revised	† 7925
105-61.102—105-61.102-3 Redesignated as 105-61.103—105-61.103-3 and revised	† 7925
105-61.103—105-61.103-6 Redesignated as 105-61.102—105-61.102-6 and revised	† 7925
105-61.103-105-61.103-3 Redesignated from 105-61.102—105-61.102-3 and revised	† 7925

NOTE: Symbol (†) refers to 1975 page numbers.

41 CFR—Continued

39 (40†) FR Page

Chapter 105—Continued
105-61.104—105-61.104-3 Revised.......† 7926
105-61.105 Revised.......†7926
105-61.106-1 Revised.......†7926
105-61.108 Revised.......†7926
105-61.108-1 Added.......† 7926
105-61.108-2 Added.......† 7926
105-61.201—105-61.203-2 (Subpart 105-61.2) Revised.......†7926
105-61.4800—105-61.4801-7 (Subpart 105-61.48) Redesignated as Subpart 105-61.51 and revised.......† 7927
105-61.5100—105-61.5101-7 (Subpart 105-61.51) Redesignated from Subpart 105-61.48 and revised.......† 7927
105-61.5201—105-61.5208 (Subpart 105-61.52) Added.......† 7928
105-63 Added.......† 2670
105-64 Redesignated as 105-54...25232
105-65 Heading added.......25230
105-66 Heading added.......25230

Chapter 109
Chapter heading revised.......† 5364
Nomenclature changes.......† 5364
109-1.102 Revised.......† 15091
109-1.104-2 (a) revised.......† 15091
109-1.151 (a) revised.......† 15091

Chapter 114
114-1.109-50 Amended.......† 345
114-3.105 Revised.......†3450
114-3.204 (b) (1) and (2) revised.......† 12790
114-3.205 Revised.......†3450, 12791
114-3.206 Revised.......†3450, 12791
114-19.602—114-19.607 (Subpart 114-19.6) Added.......† 25593
114-25.104-2 Removed.......† 3450
114-25.302-3 Heading amended.......† 3450
114-25.350 Amended.......† 3450
114-25.4801 Revised.......†3596
114-25.4801-50 Revised.......†3596
114-26.308 Revised.......†3450
Removed.......† 20818
114-26.406-2 (d) amended...† 3450, 10469
114-26.501 Revised.......†19477
114-26.501-52 Revised.......†19477
114-26.6 Heading redesignated as 114-26.7 and revised.......† 10469

41 CFR—Continued

39 (40†) FR Page

Chapter 114—Continued
114-26.600-50 (Subpart 114-26.6) (Incorrectly designated as 114-26.650) Revised.......† 3450
Redesignated as 114-26.750 (Subpart 114-26.7); heading revised.......† 10469
114-26.600-51 Removed.......† 3450
114-26.750 (Subpart 114-26.7) Added; redesignated from 114-600-50 (Subpart 114-26.6) (Incorrectly designated as 114-26.650); heading revised... † 10469
114-28 Added.......† 13218
114-30 Added.......† 5525
114-38.102-1 Revised.......†5526
114-38.302 Amended.......† 20818
114-38.402 Revised.......†5526
114-39.404-3 Revised.......†5526
114-39.404-4 Revised.......†5526
114-39.601—114-39.602-1 (Subpart 114-39.6) Added.......† 5525
114-40.307 Revised.......†5526
114-40.5001—114-40.5006 (Subpart 114-40.50) Revised.......29361
114-42.302-2 Revised.......†5526
114-42.302-4 Removed.......† 5526
114-43.102-52 Revised.......†12080
114-43.104-53 Removed.......† 20818
114-43.313-5 Removed.......29361
114-43.319 Revised.......31904
114-43.319-50 Revised.......31904
114-43.319-52 Amended.......31904
114-43.320 Amended.......31904
114-43.402-4 (c) added.......† 3451
(a) removed.......† 10469
114-45.316-2 Revised.......†5526
114-45.317 (b) revised.......† 5526
114-45.317-50 Revised.......†5526
114-45.803—114-45.804 (Subpart 114-45.8) Revised.......†5527
114-46.202 (Subpart 114-46.2) Revised.......†5527
114-46.407 Amended.......† 5527
114-47.203-1 (c) revised.......† 12080
(d) revised.......† 21954
114-47.203-7 Introductory text to (a) revised.......† 5527
114-47.301-5 (b) revised.......† 5527
114-47.304-8 (b) revised.......† 5527
Revised.......† 21954
114-47.304-51(c)(2)(v) revised.......† 5527
114-47.802-54 (d) revised.......† 5527
114-50.100 Revised.......†21854
114-50.101 Revised.......†21854

NOTE: Symbol (†) refers to 1975 page numbers.

41 CFR—Continued

39 (40†) FR Page

Chapter 114—Continued

114-50.107-2 Revised....................†21854
114-50.111 Redesignated as 50.112; new 114-50.111 added....................† 21854
114-50-112 Redesignated from 114-50.111....................† 21854
114-50.201 (b), (d)(4), and (g) revised....................† 21854
114-50.400—114.408 (Subpart 114-50.4) Appendix I revised....................† 21855
114-50.403 (a) and (b) revised... †21855
114-50.407-3 Redesignated as 114-50.407-4; new 114-50.407-3 added....................†21855
114-50.407-4 Redesignated from 114-50.407-3....................† 21854
114-50.500 Introductory text revised....................† 21857
114-50.702—114-50.703 Revised....................† 21857
114-50.800—114-50.804 (Subpart 114-50.8) Appendix I added....................† 21858
114-50.802-1 (c) revised; (d) redesignated as (e); new (d) added....................† 21858
114-50.802-2 Revised....................†21858
114-50.802-3 (a) introductory text revised....................† 21858
114-50.804 Revised....................†21858
114-50.900 Revised....................†21859
114-50.902 Revised....................†21859
114-50.903 Heading and (e) revised; (a)(2) amended; (f) added....................† 21859
114-50.904 Removed....................† 21859
114-50.905 Revised....................†21859
114-50.906 Revised....................†21859
114-50.1000 Revised....................†21859
114-50.1003 Added....................† 21860
114-50.1004—114-50.1006 Revised....................†21860
114-50.1008 Existing text removed; new 114-50.1008 redesignated from 114-50.1009 and revised....................† 21860
114-50.1009 Redesignated as 114-50.1008 and revised; new 114-50.1009 redesignated from 114-50.1010....................† 21860
114-50.1010 Redesignated as 114-50.1009; new 114-50.1010 added....................† 21860

Note: Symbol (†) refers to 1975 page numbers.

41 CFR—Continued

39 (40†) FR Page

Chapter 114—Continued

114-50.1011 Existing text removed; new 114-50.1011 redesignated from 114-50.1012....................† 21860
114-50.1012 Redesignated as 114-50.1011....................†21860
114-50.1200—114-50.1200-3 (Subpart 114-50.12) Appendices I and II revised....................†21861
114-50.1200 Revised....................†21860
114-50.1200-1 (b), (c)(4), (d), and (e) revised; (f) removed; (g) redesignated as (f)....................†21860
114-50.1200-3 Revised....................†21860
114-50.103 Revised....................†21860
114-51.103 Revised....................26288
114-51.104 Revised....................†20818
114-51.104-1 Amended....................†20818
114-51.104-3 Amended....................†20818
114-52.203 (b) revised....................†5527
114-60.000 Revised....................34279
114-60.001—114-60.003 Added.... 34279
114-60.100—114-60.106 (Subpart 114-60.1) Revised....................34280
114-60.104 Revised....................†5527
114-60.900—114-60.905 (Subpart 114-60.9) Added..... 34281

1975–1976

(Regulations published July 1, 1975 through June 30, 1976)

41 CFR

40 (41Δ) FR Page

Chapter 105

105-50 Revised....................Δ21451
105-54.201 (a) revised....................Δ2235
105-54.202 (b) revised....................Δ2235
105-54.204 (a) revised....................Δ2235
105-54.301 Revised....................Δ2235
105-54.301-1 Revised....................Δ2235
105-54.301-3 Revised....................Δ2235
105-54.301-4 (a) and (c) revised....................Δ2235
105-54.301-6 (e) and (f) revised....................Δ2236
105-54.303 (a) revised; (d), (e), (f), (g), and (h) added....................Δ2236
105-54.304 (b)(2) and (c) revised....................Δ2236
105-54.401 Revised....................Δ2236
105-54.402 Removed....................Δ2236

Note: Symbol (Δ) refers to 1976 page number.

41 CFR—Continued

40 (41Δ) FR Page

Chapter 105—Continued

105-61.101-1 (f) added.................28610
105-61.304-2 (d) revised...............Δ7750
105-61.5201 (c)(3) removed..........42881
105-61.5205 (b) and (d) revised... 42881
105-61.5206 Revised.....................42881
105-61.5208 Revised.....................42882
105-61.5300—61.5303-418 (Subpart 105-61.53) added..............56892
105-64 Added................................52800
105-735.222 Added........................39505

Chapter 114

114-25.100 ....Δ4927
114-25.4801 Revised..................Δ24124
114-26.401-1 Revised; eff. 10-1-76...Δ26572
114-26.406-2 Removed; eff. 10-1-76...Δ26572
114-26.406-4 Removed; eff. 10-1-76...Δ26572
114-27.206 Redesignated as 114-27.207.......................................Δ24124
114-27.206-1 Redesignated as 114-27.207-1...........................Δ24124
114-27.207 Added; redesignated from 114-27.206......................Δ24124
114-27.207-1 Added; redesignated from 114-27.206-1............Δ24124
114-38.101 (d) amended............Δ24124
114-38.102 Amended.................Δ24124
114-38.102-1 Revised.................Δ24124
114-38.607 Revised.......................30483
114-38.901 (b) amended............Δ24124
114-38.1201—114-38.1202 (Subpart 114-38.12) added; eff. 10-1-76.............................Δ26572
114-38.5000—114-38.5006 (Subpart 114-38.50) revised... Δ24587
114-38.5100—114-38.5105 (Subpart 114-38.51) added....Δ15412
114-38.5300—114-38.5315 (Subpart 114-38.53) removed.......................................Δ24124
114-39.503—114-39.503-51 (Subpart 114-39.5) added........Δ5283
114-39.601—114-39.602-1 Added...Δ5525
114-39.801 Revised....................Δ24124
114-40.307 (Subpart 114-40.3) removed.......................................52847
Corrected (reinstated)................Δ2237
114-40.5001—114-40.5006 (Subpart 114-40.50) removed.........52847
114-41 Added................................52847

41 CFR—Continued

40 (41Δ) FR Page

Chapter 114—Continued

114-41.304-2 (a) revised............Δ24125
114-42.203 (Subpart 114-42.2) revised..33217
114-42.301—114-42.303-2 (Subpart 114-42.3) revised............40517
114-43.000 Revised........................33217
114-43.301—114-43.320 (Subpart 114-43.3) table of contents revised...55857
114-43.301 Revised........................55857
114-43.301-50 Added....................55857
114-43.311-1 Revised....................55857
114-43.319 (b) revised..................55858
114-45.000 Revised........................33217
114-46.407 Revised......................Δ24125
114-47.000 Revised........................33217
114-50.703 (b) added....................Δ3086
114-52.103 Revised........................30483
114-52.206 (a)(2) revised..............30483
114-52.207 Redesignated as 114-52.208; new 114-52.207 added..30484
114-52.208 Redesignated as 114-52.209; new 114-52.208 redesignated from 114-52.207..........30484
114-52.209 Redesignated as 114-52.210 and revised; new 114-52.209 redesignated from 114-52.208..30484
114-52.210 Redesignated from 114-52.209 and revised.............30484
114-52.402 Revised........................30484
114-60.104 Revised........................Δ4927
114-60.501 (a), (b), and (c) revised; (d) removed.....................42746
114-60.1000—114-60.1005 (Subpart 114-60.10) added...............55858

1976–1977

(Regulations published July 1, 1976 through June 30, 1977)

41 CFR

41 (42*) FR Page

Chapter 105

105-54.303 (d) through (h) redesignated as (e) through (i) and revised; new (d) and (j) added..47441
105-54.304 (b) introductory text and (c) revised............................47441
105-54.306 (b) revised...................47442

NOTE: Symbol (*) refers to 1977 page numbers.

NOTE: Symbol (Δ) refers to 1976 page numbers.

41 CFR—Continued

41 (42*) FR Page

Chapter 105—Continued
105-54.401 (a) introductory text revised.......47442
105-61.001-6 Revised.......*13022
105-61.101-1 (d) revised.......*13022
105-61.101-2 (c) revised.......*13022
105-61.101-4 Revised.......*13022
105-61.102-5 Revised.......*13023
105-61.307 Revised.......*13023
105-61.5101-6 (b) revised.......*13023
105-61.5101-7 (c) and (d) revised.......*13023
105-61.5201 (c) (4) through (6) revised.......45001
105-61.5205 (b) and (e) revised.......45001
105-61.5206 Revised.......45001
105-61.5207 Revised.......45002
105-61.5208 Revised.......45002
105-64.002 (i) through (l) added.......42954
105-64.101-1 Revised.......42954
105-64.101-4 (a) and (b) revised.......42955
105-64.201 (b) amended.......42955
105-64.201a Added.......42955
105-64.301-1 (b) revised; (c) added.......42955
105-64.301-2 (a) and (b) revised.......42955
105-64.301-3 (d) and (g) revised; (h) removed.......42955
105-64.301-4 (f) removed.......42955
105-64.301-5 Added.......42955
105-64.302-3 Revised.......42956
105-64.602-1 Amended.......42956
105-64.602-2 Amended.......42956
105-64.701 (Subpart 105-64.7) added.......42956

Chapter 114
Chapter 114 Nomenclature changes.......*10002, 24740
Correctly designated.......*13829
114-1.100—114-1.110 (Subpart 114-1.1) revised.......*30196
114-1.109-50 (d) corrected.......*32783
114-25.351 Revised.......*23151
114-34.204 Revised.......55345
114-38.1200 Added.......54487
114-38.1201 (d) amended.......54487
114-38.5500—114-38.5511 (Subpart 114-38.55) added.......36654
114-39.601 Revised.......*6368
114-39.601-50 Added.......*6369
114-43.000 Revised.......*5359

NOTE: Symbol (*) refers to 1977 page numbers.

41 CFR—Continued

41 (42*) FR Page

Chapter 114—Continued
114-43.001—114-43.001-52 Added.......*5359
114-43.104—114-43.104-52 Removed.......*5359
114-52.111 Removed.......29818
114-60.1000—114-60.1002 (Subpart 114-60.10) revised.......*6814
114-60 Appendix A heading revised; Appendix B added.......*6814

Chapter 128
Chapter 128 Added.......45987
128-1 Added.......45987
128-18 Added.......*21474

1977–1978

(Regulations published July 1, 1977 through June 30, 1978)

41 CFR

42 (43†) FR Page

Chapter 105
105-53 Added.......44813
105-54.102 (a)(3) revised.......35649
105-54.104 (a) revised.......35649
105-54.201 Introductory text revised.......35649
105-54.202 (a) revised.......35649
105-54.203 Revised.......35649
105-54.203-1 (a) revised.......35649
105-54.301-1 Revised.......35649
105-54.301-2 Revised.......35649
105-54.301-3 Revised.......35649
105-54.301-4 (a) and (b) revised.......35649
105-54.301-6 (e) revised.......35649
105-54.302 Revised.......35650
105-54.303a Added.......35650
105-54.304 (a-1) added.......35650
105-54.401 (a) and (c) revised.......35650
105-61.102-5 Revised.......†1798
105-61.5208 Revised.......61861
105-61.5303-29 Revised.......64895
105-61.5303-29a Removed.......64895
105-63 Revised.......40858
105-63.104 Added.......63626
105-63.302 Revised.......54830
105-63.400—105-63.406 (Subpart 105-63.4) added.......63626
105-63.403 Corrected.......63787
105-65 Added.......56123
105-65.308 Revised.......†14316

NOTE: Symbol (†) refers to 1978 page numbers.

41 CFR—Continued

42 (43†) FR Page

Chapter 114

114-25.303 Added.......................... 39978
114-26.501—114-26.501-53
(Subpart 114-26.5) revised........ †761
114-35.204 Revised......................†26733
114-38.5500—114-38.5512
(Subpart 114-38.55) revised.... 55894
114-43 Revised............................†11577
114-44 Revised............................†11580
114-45 Revised............................†11580
114-46 Revised............................†11582
114-60.300 Amended.....................42857
114-60.303 (b) and (c) removed; (d) redesignated as (b) and republished.. 42857
114-60.901 (b)(1) amended.......... 42857
114-60.902 (a)(2) amended...........42857
114-60.1000 Revised......................56329
114-60.1001 Revised......................56329
114-60.1002 (a) (1) and (2) added.. 42857
114-60 Appendix A revised.......... 56329

Chapter 128—Department of Justice

128-48 Added................................ †3279
128-50 Added................................ †3279

1978–1979

(Regulations published from July 1, 1978 through June 30, 1979)

41 CFR

43 (44Δ) FR Page

Chapter 105

105-61.103.1 (a) and (c) revised... Δ18495
105-61.103-3 Revised..................Δ18496
105-61.104 Revised..................... Δ18496
105-61.104-1 Revised..................Δ18496
105-61.104-2 Revised..................Δ18496
105-61.104-3 Revised..................Δ18496
105-61.104-4 Revised..................Δ18497
105-61.104-5 Revised..................Δ18497
105-61.104-6 Added.................... Δ18497
105-61.104-7 Added.................... Δ18497
105-61.104-8 Added.................... Δ18498
105-61.104-9 Added.................... Δ18498
105-61.104-10 Added.................. Δ18498
105-61.201 Revised..................... Δ18498
105-61.203 Removed...................Δ18498
105-61.203-1 Removed..............Δ18498
105-61.203-2 Removed..............Δ18498
105-61.5201 (c)(4) removed..........58569
105-61.5208 Revised......................58569
105-64.302-3 Revised..................Δ23836

41 CFR—Continued

43 (44Δ) FR Page

Chapter 105—Continued

105-64.501 Revised..................... Δ23836
105-64.502 Revised..................... Δ23836
105-64.601 Revised..................... Δ23836
105-64.602 Revised..................... Δ23836
105-64.602-1 Removed; regulations transferred to 105-64.602.......................................Δ23836
105-64.602-2 Removed..............Δ23837

Chapter 109

Chapter 109 Revised...................... Δ986
109-1 Revised................................ Δ986
109-14 Added..................................Δ996
109-25 Added..................................Δ996
109-26 Added..................................Δ998
109-27 Added..................................Δ998
109-28 Added..................................Δ1002
109-29 Added..................................Δ1003
109-30 Added..................................Δ1003
109-35 Removed..............................Δ986
109-36 Added..................................Δ1003
109-38 Added..................................Δ1004
109-39 Added..................................Δ1016
109-40 Removed..............................Δ986
109-42 Added..................................Δ1017
109-43 Added..................................Δ1018
109-44 Added..................................Δ1021
109-45 Added..................................Δ1022
109-46 Added..................................Δ1026
109-48 Added..................................Δ1026
109-50 Added..................................Δ1026
109-51 Added..................................Δ1029

Chapter 114

114-38.402 (Subpart 114-38.4) Revised...48640
114-45.105-3 (Subpart 114-45.1) Revised...42751
114-50.103 Revised.........................42753
114-50.107-2 Revised.....................42753
114-50.201 (h) revised................ 42753
114-50.402 Revised.........................42756
114-50.403 (b) revised................ 42753
114-50.400—115-50.408
(Subpart 114-50.4) Appendix I removed..................................42753
114-50.601-2 (c) revised...........Δ28329
114-50.701 Revised.........................42753
114-50.702 Revised.........................42753
114-50.702-1 Removed................. 42753
114-50.1200—114-50.1202
(Subpart 114-50.12) Revised... 42754
114-50.1300—114-50.1306
(Subpart 114-50.13) Added..... 42751
114-51.104 Revised.................... Δ21267

NOTE: Symbol (†) refers to 1978 numbers.

NOTE: Symbol (Δ) refers to 1979 page numbers.

41 CFR—Continued

43 (44Δ) FR Page

Chapter 114—Continued

114-51.104-1 Introductory text revised....Δ21267
114-51.104-3 Introductory text amended....Δ21267
114-52.105 (h) and (i) added....36933
114-52.110 Revised....36934
114-52.201—114-52.2010 (Subpart 114-52.2) Revised....36934
114-52.301—114-52.313 (Subpart 114-52.3) Revised....36937
114-52.401—114-52.404 (Subpart 114-52.4) Revised....36939
114-52.501—114-52.502 (Subpart 114-52.5) Revised....36940
114-52.601—114-52.602 (Subpart 114-52.6) Added....36941
114-52.701—114-52.706 (Subpart 114-52.7) Added....36941

1979–1980

(Regulations published from July 1, 1979 through June 30, 1980)

41 CFR

44 (45*) FR Page

Chapter 105

105-54.104 (a) revised....65071
105-54.201 Revised....65071
105-54.202 Revised....65071
105-54.203-1 (a) revised....65071
105-54.301-4 (b) revised....65072
105-54.303 (b) and (i) revised....65072
105-54.304 (b) introductory text, (2) introductory text, (i) and (ii), and (c) revised....65072
105-54.401 (d) introductory text and (1) revised....65072
105-61.101-4 Revised....*8603
105-61.102-7 Added....*8603
105-61.302-1 Revised....*29577
105-61.5101-3 (e) revised....*28340
105-61.5101-7 (d), (f), (g), (h), and (k) revised....*28340
105-61.5201 (c)(6) revised....*28340
105-61.5205 (a), (c), and (e) revised....*28340
105-61.5206 (a) through (i) revised....*28340
Corrected....839258
105-61.5208 Revised....*28341

NOTE: Symbol (Δ) refers to 1979 page numbers.

41 CFR—Continued

44 (45*) FR Page

Chapter 105—Continued

105-62 Revised....64805
105-63.104 Revised....*14856
105-63.400—105-63.407 (Subpart 105-63.4) Revised....*14857
105-65.203-2 (a) revised....51594
105-735 Revised....*9273

Chapter 109

109-1.100-50 (d) revised....*944
109-1.106 (b) revised; (c) and(d) added....*944
109-35 Republished; CFR Correction....*16488
109-40 Republished; CFR Correction....*16489
109-60 (Subchapter K and part) Added....8944

Chapter 114

114-35 Removed....49454

1980–1981

(Regulations published from July 1, 1980 through June 30, 1981)

41 CFR

45 (46†) FR Page

Chapter 105

105—60 Revised....†8154
105—61.5303-56 Revised....†4015
105—735.102 (d) through (g) redesignated as (e) through (h) and revised; new (d) added....†25305
105—735.103 (a) (1), (2), and (3), (b), and (d) revised; (e) added....†25305
105—106 Added....†25306
105—735.202 (a), (b), (e)(2), (e)(3) (i), (iii), (vi), (x), (xi), and (4) revised; (e)(5) added....†25306
105—735.203 Revised....†25306
105—735.204 (a), (b) (2), (12), and (c)(4) revised; (b)(5) removed....†25306
105—735.205 Revised....†25307
105—735.207 Revised....†25307
105—735.211 Revised....†25307
105—735.215 (c) revised....†25307
105—735.216 Revised....†25307
105—735.218 Revised....†25307
105—735.219 Revised....†25307
105—735.301 Revised....†25307

NOTE: Symbol (*) refers to 1980 page numbers.

NOTE: Symbol (†) refers to 1981 page numbers.

41 CFR—Continued

Chapter 105—Continued	45 (46†) FR Page
105—735.302 introductory text and (e) revised	†25308
105—735.303 Heading, (a), (d), and (e) revised	†25308
105—735.305 Revised	†25308
105—735.311 Revised	†25308
105—735.312 Revised	†25308
105—735.314 Revised	†25309
105—735.401 Revised	†25309
105—735.404 Revised	†25309
105—735.405 Revised	†25309
105—735.407 (a), (c), (d), and (e) revised	†25309
105—735.408 (a) revised	†25309
105—735.410 Revised	†25309
105—735.501 (d) revised	†25310
105—735.502 (t) revised	†25310
105—735.503 Introductory text, (a) (1), (2),(3), (5), and (8) revised	†25310
Chapter 109	
109-40 Revised	80287
Chapter 128	
128-1.5007 Added	55727

Note: Symbol (†) refers to 1981 numbers.

1981-1982

(Regulations published from July 1, 1981 through June 30, 1982)

41 CFR

Chapter 105	46 (47Δ) FR Page
105-53 Added	23164
105-61.5101-3 (a) revised; (g) added	37652
105-61.5201 (c) (2), (5) and (6) revised	37652
105-61.5205 (a), (d), and (e) revised	37652
105-61.5206 (b) through (j) revised	37652
105-61.5207 Revised	37653
105-61.5208 Revised	37653
105-62.102 Revised	Δ5416
105-735.601—105-735.606 (Subpart 105-735.6) Added	Δ6848
Chapter 114 Nomenclature change	52364
114-26.501 Amended	52364
114-26.501-1 Amended	52364

Note: Symbol (Δ) refers to 1982 page numbers.